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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations on its tenth session

Chairperson/Rapporteur: Mrs. Erica-Irene A. Daes

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Note: The opening statement of the Under-Secretary-General and the opening and closing statements of the Chairperson/Rapporteur will be issued in document E/CN.4/Sub.2/1992/33/Add.1.

Introduction

Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the final report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, on the Study of the Problem of Discrimination against Indigenous Populations (E/CN.4/Sub.2/1986/7 and Add.1-5);

(b) Give special attention to the evolution of standards concerning the rights of indigenous peoples, taking account of both the similarities and the differences in the situations and aspirations of indigenous peoples throughout the world.

2. In addition to the review of developments and the evolution of international standards which are separate items on the Working Group's agenda, the Group has over the years considered a number of other issues relating to indigenous rights. A number of reports requested by the Sub-Commission in its resolutions 1991/30 and 1991/31 were available to the Working Group. These included a report by the Secretary-General on economic and social relations between States and indigenous peoples and a note by the Secretary-General on the intellectual property of indigenous peoples. These reports were considered under items 8 and 9, respectively.

Participation in the session

3. By decision 1991/119 of 30 August 1991, the Sub-Commission decided on the following composition of the Working Group at its tenth session: Mr. Miguel Alfonso Martínez, Ms. Judith Attah, Mr. Danilo Türk, Mrs. Erica-Irene A. Daes, and Mr. Ribot Hatano.

4. The session was attended by Mr. Alfonso Martínez, Ms. Attah, Mr. Chernichenko, Mrs. Daes and Mr. Hatano.

5. The following States Members of the United Nations were represented by observers: Argentina, Australia, Austria, Bangladesh, Bhutan, Bolivia, Brazil, Canada, Chile, Colombia, Cyprus, Denmark, Dominican Republic, El Salvador, Finland, France, Greece, Honduras, India, Indonesia, Italy,

Japan, Malaysia, Mexico, Myanmar, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Peru, Philippines, Russian Federation, Senegal, Sweden, Syrian Arab Republic, Thailand, Turkey, United States of America, Venezuela and Viet Nam.

6. The Holy See was represented by an observer.

7. The United Nations Development Programme and the Office of the United Nations High Commissioner for Refugees were represented by observers.

8. The International Labour Organisation and the World Health Organization were represented by observers.

9. The International Committee of the Red Cross and the International Organization for Migration were represented by observers.

10. The Greenland Home Rule Government was represented by an observer.

11. The Aboriginal and Torres Strait Islander Commission of Australia was represented by observers.

12. The following non-governmental organizations (NGOs) in consultative status with the Economic and Social Council were represented by observers:

(a) Indigenous peoples

Grand Council of the Crees (Quebec), Indian Council of South America (CISA), Indian Law Resource Center, International Indian Treaty Council, International Organization of Indigenous Resource Development, Inuit Circumpolar Conference, National Aboriginal and Islander Legal Services Secretariat, National Indian Youth Council, Nordic Saami Council, and the World Council of Indigenous Peoples.

(b) Other organizations

Category I

World Muslim Congress.

Category II

African Association of Education for Development, Afro-Asian People's Solidarity Organization, Amnesty International, Andean Commission of Jurists, Anglican Consultative Council, Anti-Slavery International, Baha'i International Community, Commission of the Churches on International Affairs (World Council of Churches), Four Directions Council, Friends World Committee for Consultation, Habitat International Coalition, Human Rights Advocates, International Association of Democratic Lawyers, International Association of Educators for World Peace, International Federation of Human Rights, International Federation Terre des Hommes, International Fellowship of Reconciliation, International League for the Rights and Liberation of Peoples, International Movement for Fraternal Union among Races and Peoples,

International Organization for the Elimination of All Forms of Racial Discrimination, International Service for Human Rights, International Work Group for Indigenous Affairs, Women's International League for Peace and Freedom, World Federalist Movement.

Roster

Minority Rights Group, Third World Movement against the Exploitation of Women.

13. The following indigenous peoples' nations and organizations, as well as other organizations and institutions, were represented at the session and furnished information to the Working Group with its consent:

(a) Indigenous peoples' nations and organizations

Aboriginal Law Centre, Aboriginal and Torres Strait Islander Commission, Agrupacion Aucan, Ainu Association of Hokkaido, Alliance of Taiwan Aborigines, Algonquins of Barrier Lake, Amauta, American Indian Anti-Defamation Council, Apache Survival Coalition, United States of America, San Carlos Apache, Asian Indigenous Peoples Pact, Asociacion Indigena de la Republica Argentina, Asociacion Interetnica de Desarrollo de la Selva Peruana, Asociacion de los Estudiantes Indigenas de Madre de Dios, Asociacion Indigena Argentina, Asociacion de Parcialidades Indigenas, Assembly of First Nations, Assembly of Manitoba Chiefs, Association of Peoples of North Russia, Australian South Sea Islanders United Council, Blackfeet Nation, Black Hills Teton Sioux Nation, Cecujala (Bolivia), Central Land Council, Centro Estudios y Documentation Mapuche, Centro Union Achiri, Chirapaq - Peru, Coalition of Aboriginal Organizations Australia, Comision Juridica de los Pueblos de Integracion Tawantinsuyana (COJPITA), Comite Campesino del Altiplano Cakchiquel (Guatemala), Comite Exterior Mapuche, Comite Organizador Indigena Kaqchique, Comite de Unidad Campesina de Guatemala, Comunidad Indigena Ishor, Confederacy of Treaty of Six First Nations, Conive, Conseil des Atikameku et des Montagnais, Consejo Central del Pueblo Cuatro Martires del Pueblo Maya Cachikel de Guatemala, Consejo de las Naciones Mayas de Guatemala, Consejo de todas las Tierras, Conselho Indigena Roraina, Conselho Indigena Potiguar, Coongaree, Tanganikeld People, Coordinacion Maya "Majawil Quij", Coordinadora Cacchikei de Desarrollo Integral, Coordinadora Organizaciones Mapuches, Cordillera Peoples Alliance, Cree Nation Youth Council, Council of Elders, Murray Island Torres Strait, Dalit Nations of India, Dwane Moeders Suriname, Federation of Aymar Markas, Federacion Nativa del Rio Madre de Dios y Afluentes, Federacion de Tribus Xicaques de Joro, Greenland Home Rule, Grupo Mujer Educacion Indigena, Guarani - Argentina, Hadjabe People, Haisla - Kitamaat Village Council, Hmong People, Iban (Indigenous Tribe of Sarawak), Iina Torres Strait Islanders Corporation (Brisbane), Indian Council of Indigenous and Tribal Peoples, Indigenous Native American Task Force, International Indigenous Commission, Joseph Bighead First Nation, Jumma Nation, Kaayellii Dine Nation (Utah Navajos), Kachin Independence Organization, Kamp Indigenous Peoples Organization (Philippines), Karen National Union, Keepers of the Treasures Cultural Council of American Indians, Kimberly Land Council, Korongoro Integrated Peoples Oriented to Conservation (KIPOC), Kungarakuny Culture and Educational Association, Lumad Mindanaw, Mrtkl - Quechuz Aymara Bolivie, Maori Aoteroa - New Zealand, Maori Legal

Service, Maori Womens Centre, Mapuche, Maraling Tsarutsa, Minorities Twa Du Rwanda, Mikmaq Grand Council, Mosul Vilayet Council, Mohawk Nation, Mouvement Tupay Katari (Bolivie), Movimiento Accion Reconciliacion, Movimiento Quintil L. Colombia, Nabguana - Movimiento de la Juventud Kuna, National Chicano Human Rights Council, National Coalition of Aboriginal Organizations, National Committee to Defend Black Rights (CDBR) Aboriginal Corporation - Australia, National Maori Congress New Zealand, New South Wales Aboriginal and Land Council, Ngaati Te Ata, Nishnawbe-Aski Nation, Northern Land Council, Ogoni, Organizacion de Mujeres del Kollasuyo (OMAK), Organizacion Pichincha Riccharimui (Ecuador), Organizacion Regional de la Mujer para Desarollo (ORMI), Organizacion Sukawala, Pacific Asia Council of Indigenous Peoples, Rainforest Defense Fund, Sahabat Alam Malaysia, Saykeeny First Nation, Servicios del Pueblo Mixe A.C., Survie Touaregue Temoust, Toledo Maya Cultural Council, Top End Aboriginal Coalition, United Indian Councils of the Mississauga and Chippewa, Unrepresented Nations and Peoples Organization (UNPO), Verts - Commission Transnationale, West Queenland Aboriginal and Torres Strait Islander Corporation for Legal Aid, Yankuikanahuak - Mexico.

(b) Other organizations and groups

Alliance Europeenne avec les Peuples Indigenes, Asociacion Identidad Latinoamericana, Asociation des Etudiants pour l'Amerique Latine (AEPAL), Association de Soutien aux Nations Amerindiennes, Association Ricreativa Culturale Italia, Big Mountain Aktionsgruppe, Bruno-Manser-Fonds, Center for World Indigenous Studies, Centre de Documentation Amerindien Amazone - France, Centre d'Information sur les Populations Indigenes, Comision de Derechos Humanos de Guatemala, Comite Belge - Amerique Indienne, Comite d'Appui aux Peuples Indigenes d'Argentine et du Chili (CAPISAC), Comite de Solidaridad Triqui en el Area Metropolitana, D.C., Comite de Solidarite avec la Lutte du Peuple Mapuche - Chili, Comite de Soutien avec les Tucanos, Comite pro Justicia y Paz de Guatemala, Conseil Indigeniste Missionnaire, Consultorio Juridico de Pueblos Indigenos de Panama, Danish Centre for Human Rights, Egyptian Organization for Human Rights, European Association for American Studies, Foundation for Inner Visions, Foundation Papua Peoples Pavo, Fourth World Center, France Tibet, Freunde der Naturvoelker, Fundacion Cubana de Derecho Humano, Health for Minorities, Homeland Mission 1950 for South Moluccas, Good Offices Group of European Lawmakers, Groupe de Soutien a la Coordination Indigene de l'Amazonie Bresilienne, Groupe Francais d'Education Nouvelle, Identite Amerique Indienne, Incomindios Schweiz, Indigenous Work Committee of the Presbyterian Church in Taiwan (Bunun Tribe), Instituto Indigena - Guatemala, Kwia Flemish Support Group for Indigenous Peoples, Lelio Basso International Foundation for the Rights and Liberation of Peoples, Mondial Contact, Otavalo 92 500 Anos, Rainforest Info Center, Reseau Solidarite, Shimin Gaikou Centre, Society for Threatened Peoples, The South and Mesoamerican Indian Information Center, Traditions pour Demain, West Papuan Peoples Front, Working Group on Indigenous Peoples (W.I.P.) - (The Netherlands), World Rainforest Mouvement, Yankuikannahuan (Osterreich).

14. In addition to the above-mentioned participants, 198 individual scholars, experts on human rights and human rights activists and observers attended the meetings. A total of 615 people attended the tenth session of the Working Group.

Election of officers

15. At its 1st meeting on 20 July 1992, the Working Group re-elected by acclamation Mrs. Erica-Irene A. Daes as Chairperson/Rapporteur, for the eighth time.

Organization of work

16. At its 1st meeting, the Working Group considered and adopted the provisional agenda, contained in document E/CN.4/Sub.2/AC.4/1992/L.1.

17. The Working Group held 19 public meetings from 20 to 31 July 1992. The Working Group decided to devote the 2nd to 10th meetings to item 4 on standard-setting activities, six meetings to item 5 on review of developments, one plenary meeting to item 6 concerning ongoing work by the Special Rapporteur of the Sub-Commission on his study of treaties, agreements and other constructive arrangements between States and indigenous populations, and one plenary meeting to item 7 on the International Year for the World's Indigenous People, item 8 on meetings and seminars and item 9 on other matters. In accordance with established practice, the Working Group continued to meet in private during the subsequent session of the Sub-Commission for the purpose of finalizing this report and adopting the recommendations contained in annex I.

Documentation

18. The following documents were made available to the Working Group:

Provisional agenda (E/CN.4/Sub.2/AC.4/1992/L.1);

Information received from the Governments of Finland and Thailand (E/CN.4/Sub.2/AC.4/1992/1 and E/CN.4/Sub.2/AC.4/1992/4);

Information received from the United Nations organs, specialized agencies and intergovernmental organizations: International Labour Office, United Nations Educational, Scientific and Cultural Organization, World Bank, Inter-American Indian Institute (E/CN.4/Sub.2/AC.4/1992/2 and E/CN.4/Sub.2/AC.4/1992/5);

Information received from non-governmental organizations: Centro de Culturas Indias CHIRAPAQ, Indian Council of South America, Comisión Jurídica de los Pueblos de Integración Tawantinsuyana, "Tupay Katari" Movement, Food First Information and Action Network, Service, Peace and Justice in Latin America, Report of the Tribal Summit on the Draft Declaration on the Rights of Indigenous Peoples, Denver (E/CN.4/Sub.2/AC.4/1992/3 and Add.1 and E/CN.4/Sub.2/AC.4/1992/6);

Draft declaration on the rights of indigenous peoples - revised working paper submitted by the Chairperson/Rapporteur, Mrs. Erica-Irene A. Daes (E/CN.4/Sub.2/1992/28);

Report of the Secretary-General on economic and social relations between indigenous peoples and States (E/CN.4/Sub.2/1992/29);

Note on intellectual property of indigenous peoples: concise report of the Secretary-General (E/CN.4/Sub.2/1992/30);

Report on the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples, Santiago, Chile, 18-22 May 1992 (E/CN.4/Sub.2/1992/31).

Other documents:

Report on the Meeting of Experts to review the experience of countries in the operation of schemes of internal self-government for indigenous peoples (E/CN.4/1992/42);

Report on the Technical Meeting on the International Year for the World's Indigenous People (E/CN.4/1992/AC.4/TM/8);

Preliminary report on the study of treaties, agreements and other constructive arrangements (E/CN.4/Sub.2/1991/33);

Working paper on the cultural property of indigenous peoples (E/CN.4/Sub.2/1991/34);

First working paper on the International Year (E/CN.4/Sub.2/1990/41);

Second working paper on the International Year (E/CN.4/Sub.2/1991/39);

Report of Working Group on Indigenous Populations on its ninth session (E/CN.4/Sub.2/1991/40/Rev.1);

The Rights of Indigenous Peoples (Fact Sheet No. 9).

Adoption of the report

19. The Working Group, on 14 August 1992, unanimously adopted the present report.

I. GENERAL DEBATE

20. The Under-Secretary-General for Human Rights delivered the opening statement. He noted that the present session of the Working Group marked its tenth anniversary, he recalled that the International Year for the World Indigenous People would shortly begin. The Under-Secretary-General noted that although indigenous peoples lived in different States with different social and economic realities, they shared common concerns and problems, including lower than average life expectancy, in particular of children; the disappearance of their means of livelihood and cultures; marginalization with respect to the process of decision-making. He noted also that the deterioration of the environment had a direct impact on their ways of life; in that connection, he referred to the Technical Conference on the Indigenous Peoples and the Environment held in Santiago, Chile, in May 1992, in the conclusions adopted at the Conference which were important both for the indigenous peoples and the international community.

21. The Under-Secretary-General emphasized that the United Nations had a major role to play towards achieving international recognition and protection of the 300 million indigenous peoples all over the world. The Organization's commitment was demonstrated by the creation of the Working Group on Indigenous Populations which had made progress in drafting a declaration on the rights of indigenous peoples; the proclamation by the General Assembly of 1993 as the International Year for the World's Indigenous People and the diversified programme of activities planned thereunder; the creation of the United Nations Voluntary Fund for Indigenous Populations, as well as the establishment by the Secretary-General of a special Voluntary Fund for the International Year for the support of projects aimed at concretely improving the living conditions of indigenous peoples.

22. In his position as Coordinator of the International Year, the Under-Secretary-General would further endeavour to encourage the full participation of the rest of the United Nations system in this important initiative; several agencies had already responded positively. He had obtained the support of Governments for the creation of a small team of indigenous administrators who would assist him in the coordination of the activities of the International Year; so far, three Governments had answered his appeal and had provided the Centre for Human Rights with the valuable assistance and expertise of three representatives of indigenous communities. The Under-Secretary-General praised the Chairperson/Rapporteur of the Working Group, Mrs. Erica-Irene A. Daes, and the members of the Working Group for their commitment and congratulated them on the progress they had achieved in the elaboration of the draft declaration (the full text of the Under-Secretary-General's statement will be issued as document E/CN.4/Sub.2/1992/33/Add.1)

23. The candidacy of Mrs. Daes as Chairperson/Rapporteur of the Working Group was proposed by Mr. Alfonso Martínez and seconded by Mr. Hatano. Mrs. Daes was elected by acclamation Chairperson/Rapporteur of the Working Group for the eighth time. Following her re-election as Chairperson/Rapporteur, Mrs. Erica-Irene A. Daes, invited the Working Group to adopt the provisional agenda contained in document E/CN.4/Sub.2/AC.4/1992/L.1. The provisional agenda was adopted by consensus.

24. In her opening statement, Mrs. Daes briefly evaluated the work of the Working Group since its creation in 1982. She noted that although the two main tasks of the Working Group had remained the review of developments and the elaboration of international standards, its agenda had grown considerably since 1982. In fact, additional issues were now being considered such as the complex study on treaties and other constructive arrangements between States and indigenous peoples, entrusted to the Special Rapporteur, Mr. Alfonso Martínez, and the study on cultural property of indigenous peoples which had been assigned to her in her capacity as Special Rapporteur.

25. In her opinion, the systematic work and intense debate carried out by the Working Group since 1982 had resulted in three main achievements. The first was that the United Nations, by establishing the Working Group, organizing seminars and meetings, and approving studies, had contributed a better understanding of the rich diversity of cultures and ways of life of indigenous peoples. In that connection, she emphasized that without such a fundamental understanding there could be no tolerance, understanding and accommodation of different values and views. The second achievement was the valuable contribution made by the Working Group to the elaboration of the draft declaration on the rights of indigenous peoples which, she hoped, would become a standard to which both Governments and indigenous peoples could aspire. To this end, she underlined that she would make every effort to ensure that the draft declaration should reflect both the full range of ideas and concerns of indigenous peoples and the suggestions and views of Governments. Over the last 10 years, the debates and the discussions revolving around the draft declaration had led to the establishment of a constructive dialogue between Governments and indigenous peoples. Moreover, the Working Group itself had become a unique forum in the world community where the aspirations and concerns of 300 million indigenous peoples could be voiced. This was, the third achievement to be taken into account on the occasion of this anniversary session.

26. Mrs. Daes recalled that 1993 had been proclaimed the International Year for the World's Indigenous People and expressed the hope that the event would be used to raise worldwide awareness of indigenous peoples issues and as a basis for long-term improvements through the establishment of concrete programmes and projects aimed at bringing substantial changes in the lives of indigenous peoples. In that context, she recalled that a three-day technical meeting would take place immediately after the Working Group's session to discuss projects and activities related to the International Year; she urged the participants to make every effort to prolong their stay in Geneva and to participate in this very important meeting. She also noted that the World Conference on Human Rights, to be held in Vienna in June 1993, should equally be conceived as an important occasion for airing the concerns and the aspirations of indigenous peoples. It would be unthinkable that the World Conference on Human Rights would not include an item on indigenous rights and other relevant issues.

27. With regard to the method and organization of work of the session, Mrs. Daes expressed her hope that the Working Group would continue to make substantial progress on the draft declaration. In particular, she hoped to complete the first reading and devote time to a second reading of the first of the operative paragraphs of the draft declaration as submitted by the

Chairperson/Rapporteur at first reading and revised later by her in order to include certain important amendments proposed by Governments, indigenous peoples and specialized agencies. During the session, the Working Group would have the opportunity to consider the preliminary report of the Special Rapporteur, Mr. Alfonso Martínez, on treaties, agreements and other constructive arrangements, as well as a note prepared by the secretariat on the intellectual property of indigenous peoples.

28. Mrs. Daes referred also to the May 1992 Santiago meeting and expressed her satisfaction for the constructive and useful report adopted at this conference. She stated that the Centre for Human Rights was planning to hold a regional training course on human rights in the Latin American region during 1993; it was also preparing for publication a manual on practical experiences of indigenous populations in internal self-government, an initiative which was made possible thanks to a financial contribution from the Government of Denmark.

29. She mentioned her visit to New Zealand, at the invitation of the Government, during which she had been able to meet with governmental officials including, in particular, the Prime Minister and other ministers, and representatives of the Maori people, in particular with their respected Queen, Te Atairangi Kaahu, the Chief Judge and members of the Waitangi Tribunal, the representatives of the Maori Congress and of a great number of tribes representatives. She expressed her gratitude to the Government of New Zealand and to the Maori people for their invitation and contribution to the work of the Working Group.

30. She had also attended at the First World Indigenous Youth Conference, held in Quebec, Canada, in July 1992, where she had been impressed by the enthusiastic and dynamic participation of the younger generation of indigenous people; indigenous youth is an essential human resource which can contribute to economic, social and cultural development at the national, regional and international levels. She expressed her gratitude to the Governments of Quebec and Canada and, in particular, to the youth organizations and to the Grand Council of the Crees of Quebec for their assistance and support to the above-mentioned Conference.

31. Further, Mrs. Daes expressed her appreciation to the heads of States or Governments of the States participating in the Conference on Security and Cooperation in Europe (CSCE) for considering some of the issues related to indigenous peoples and adopting within the "Framework for Monitoring Compliance with CSCE Commitments and for Promoting Cooperation in the Human Dimension" provision 29 by which the participating States agree that their CSCE commitments regarding human rights and fundamental freedoms apply fully and without discrimination to the "persons belonging to indigenous populations". Finally, Mrs. Daes noted that this year the Voluntary Fund for Indigenous Populations had enabled 41 indigenous peoples representing 40 organizations from 19 countries to attend the Working Group, and expressed her gratitude to the donors who had made this possible with their generous contributions (the full text of Mrs. Daes' opening statement will be issued as document E/CN.4/Sub.2/1992/33/Add.1).

32. The representative of the observer Government of New Zealand, expressed his Government's deep appreciation for the visit Mrs. Daes paid to his country; he thanked her for the invaluable assistance provided during the consultation process between governmental departments and other agencies and the Maori representatives. Following the ninth session of the Working Group, the New Zealand Government had devoted considerable attention to the draft declaration, the outcome of this exercise was, inter alia, the establishment by the Government of an official Steering Committee which coordinated the Working Group on Indigenous Populations related to issues. His Government had decided to contribute again to the Voluntary Fund for Indigenous Populations.

33. Ms. Hekia Parata, General Manager of Policy of the Ministry of Maori Development, endorsed the statement made by the representative of the observer Government of New Zealand and thanked Mrs. Daes on behalf of the Minister of Maori Affairs for her visit. She then outlined the role and the responsibilities of her newly created ministry called Te Puni Kokiri, and referred to the Treaty of Waitangi between the Maori people and the British Crown as the principal framework within which her ministry works.

34. The Working Group was also attended by Judge Eddie Durie, Chairman of the Waitangi Tribunal, as well as the representative of the Maori National Congress, Mr. Archie Taiaroa, who also addressed Mrs. Daes.

35. After expressing her gratitude to the delegation of the Goverment of New Zealand and the representatives of the Maori people, Mrs. Daes also referred to the substantial contributions made by New Zealand to the Voluntary Fund for Indigenous Populations.

36. The representative of the observer Government of Australia, the Federal Minister for Aboriginal and Torres Strait Islander Affairs, Mr. Robert Tickner, emphasized the important role of the Working Group in promoting and protecting the rights of indigenous peoples and stated that his Government believed in its continuing value. He suggested that the Working Group should, in addition to its working on the draft declaration and reviewing further developments, give consideration to other developments in the area of standard-setting; it should also endeavour to make concrete suggestions as to how the problems of indigenous peoples could be addressed. He then drew attention to the concern shared by many of the participants that once the draft declaration would move out from the Working Group, indigenous people might no longer be able to participate in and provide their important input into its further elaboration. He accordingly recommended that if a working group were to be set up by the Commission on Human Rights to consider the draft declaration it should schedule its sessions to allow indigenous peoples to participate fully. Measures should be taken so that indigenous representatives be in a position to make their substantive contribution to the consideration of the draft declaration by the Commission on Human Rights.

37. The representative of the observer Government of Canada endorsed the view expressed by the representative of the observer Government of Australia that the Working Group should not cease to exist after the completion of the draft declaration, since it represents too important a forum for a constructive exchange of views between Governments and indigenous peoples.

38. The representative of the Grand Council of the Crees of Quebec, Mr. Ted Moses, stated that after the completion of the elaboration of the draft declaration, the Working Group should be given the status of an established United Nations body and continue its important activity and contribution to the protection of the rights of indigenous peoples.

39. In her closing statement, the Chairperson/Rapporteur noted that, once again, the Working Group had proved to be the main meeting place in the United Nations system for the world's indigenous peoples, and expressed her satisfaction for the increased attendance on the part of indigenous peoples' delegations and the efforts made by many indigenous peoples to attend the meeting. The Working Group played an important role: thanks to its activity since 1982, many of the observations made by Mr. Martinez Cobo in his report on discrimination against indigenous peoples had been confirmed; indigenous peoples had now taken their rightful place in the debates and on the agendas of United Nations bodies. Concerning the standard-setting activities, she referred to "Agenda 21", the plan of action adopted, in Rio de Janeiro, at the United Nations Conference on Environment and Development in June 1992, which reflected some of the principles contained in the draft declaration.

40. Mrs. Daes noted that the Working Group had made significant progress in its standard-setting activities, by completing the first reading of the draft declaration and advancing substantially in the second reading. She stressed the particularly stimulating and productive debate on the concept of "self-determination" and some other key concepts and notions of the draft declaration. The full draft declaration, as agreed upon by the members of the Working Group at first reading, would be annexed to the report of the Working Group to the Sub-Commission and that the report, together with the text of the draft declaration, would be submitted to Governments, intergovernmental and non-governmental organizations requesting their comments and amendments. She believed that the Working Group had a moral obligation to finalize the draft declaration at the level of the Sub-Commission for the International Year for the World's Indigenous People in 1993, and invited all participants to do their best to reach a balanced consensus text to be submitted to the Sub-Commission. She fully shared the concerns expressed by many representatives of both observer Governments and indigenous peoples about the future of the declaration once it would leave the Working Group: serious thought would have to be given to how indigenous peoples could continue to participate fully and without discrimination in future forums in which the draft declaration would be examined.

41. Mrs. Daes appealed to Governments, non-governmental organizations and international educational and business institutions to contribute generously to the Voluntary Fund established to support the programme of activities of the International Year: these contributions were particularly needed because, as a result of the continuing financial strains, no funds for supporting the Year would be provided from the regular budget of the United Nations. She welcomed the initiative of the Aboriginal Youth of Australia for agreeing to host the second indigenous youth conference in 1993 in Darwin, Australia; she invited the United Nations agencies, ILO, UNESCO and UNICEF in particular, to offer their assistance to the organizations of indigenous youth. Finally, Mrs. Daes extended her thanks to the Working Group members, all participants

in the session, and the secretariat for their work. She expressed her gratitude to the International Service for Human Rights and the Indigenous Centre for documentation, Research and Information (DOCIP) for the technical secretariat services they had provided to indigenous representatives (the full text of Mrs. Daes' closing statement will be issued as document E/CN.4/Sub.2/1992/33/Add.1).

II. EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES

42. At the 1st meeting, the Chairperson/Rapporteur of the Working Group, Mrs. Erica-Irene A. Daes, stated that the tenth session of the Working Group would mainly be devoted to standard-setting activities and invited all participants to make their best efforts in order to continue to work effectively and productively with a view to further progress in the elaboration of the draft declaration. She had prepared a revised working paper (E/CN.4/Sub.2/1992/28) containing her proposed text of the draft declaration on the rights of indigenous peoples as well as suggested revisions by Governments, intergovernmental organizations, indigenous organizations and other interested parties.

43. She suggested that the Working Group devote the rest of the week discussing at first reading the proposed text, and suggested revisions thereto, from draft operative paragraph 20 onward, including three additional paragraphs she had proposed and to be inserted without prejudice to their placement (E/CN.4/Sub.2/1992/28, Section B). On the basis of the debate, the members of the Working Group would elaborate a new text. Observers would be able to make preliminary comments on the new draft at this session; the text would be transmitted to Governments, intergovermental organizations, indigenous organizations and other interested parties for more detailed consideration and commentary. After the completion of the first reading, the Working Group should examine at second reading the draft operative paragraphs to the draft declaration contained in document E/CN.4/Sub.2/1992/28, Section A. Finally, the remaining meetings of the Working Group would be devoted to the other items mentioned in the agenda.

44. The Working Group continued the first reading of the draft declaration provision by provision at its 2nd to 8th meetings. The second reading of draft operative paragraphs 1 to 14 inclusive took place at the 9th and 10th meetings of the Working Group.

A. General comments

45. The representative of the observer Government of Finland highlighted the crucial importance of the standard-setting activity of the Working Group, taking into account the fact that, thus far, ILO Conventions Nos. 107 and 169 could provide only a limited protection of the rights of indigenous peoples because of their status. With respect to the draft declaration, he pointed out that some provisions still remained highly controversial, in particular those concerning the issue of "self-determination" of indigenous peoples and their rights to the lands they had been traditionally using and living on. He felt that several elements were still missing from the draft declaration, such as provisions concerning vocational training, conditions of employment

and access to social services. Nevertheless, he expressed his Government's firm conviction that the elaboration of the draft declaration by the Chairperson/Rapporteur and the Working Group should be achieved by 1993 so as to make its adoption coincide with the International Year for the World's Indigenous People.

46. The representative of the observer Government of Chile said that the draft declaration should incorporate principles and general guidelines, which could contribute to the analysis and the implementation of indigenous issues both at the social and the decision-making level. He further stressed that the principles embodied in the draft declaration should, within the domestic framework, stimulate appropriate normative processes and, above all, encourage the acquisition of a responsible social attitude with respect to indigenous peoples, their rights and their aspirations.

47. The representative of the observer Government of New Zealand emphasized the importance of consistency of the draft declaration with other international standards, and referred as well to the matter of compatibility with national laws. He drew attention to Agenda 21 prepared for the Earth Summit, which he considered directly relevant to the work of the Working Group; he also referred to chapter 26 of the said Agenda with respect the role of national legislation on indigenous matters.

48. The representative of the observer Government of Australia stated that the progress made in the standard-setting activity of the Working Group had been remarkable, in particular in 1991. However, it was imperative that the second reading of the draft declaration be completed by the eleventh session, i.e. in 1993, since a further delay would amount to a serious loss of momentum with the consequence of reducing significantly the prospects of adoption of the instrument. In this context, the objective which should be clearly kept in mind also at further stages of the elaboration process, namely at the Sub-Commission and the Commission level, was that the final outcome be a balanced and realistic aspirational text so that it could be widely accepted both by Governments and the international community as a whole.

49. The representative of the observer Government of Canada expressed satisfaction for the substantial progress made by the Working Group. While expressing the hope that the draft declaration be adopted during the International Year for the World's Indigenous People, he emphasized that clarity of language and avoidance of redundancy would be two essential prerequisites for ensuring an easier and faster negotiation process at the Sub-Commission and Commission level. In this connection, he pointed out that several provisions of the text of the draft declaration were repetative; certain concepts and terms such as "people", "self-determination" as well as "lands and territories" were frequently used without definition and therefore would need further clarification. He therefore welcomed the intention of the Chairperson/Rapporteur to include in the introduction to the final version of the draft declaration an interpretation of these concepts.

50. The representative of the Indian Council of South America stressed the important role of the United Nations in educating peoples to respect cultural differences. He was also in favour of the adoption by the Working Group of the draft declaration in 1993.

51. The representative of the Grand Council of the Crees of Quebec noted that indigenous peoples all over the world continue to belong to the poorest segments of the population and to be neglected by the international community; it was against this sad background that the work of the Working Group should be measured. In fact, the existence of the Working Group and its standard-setting activities have strongly encouraged the protection and the recognition of indigenous peoples throughout the United Nations system to such an extent that it could be stated that indigenous peoples were now also being recognized, in practice, as subjects of international law. The drafting process of the declaration had had a positive impact on some forward-looking Governments, in that they had already proceeded to adopt, or were in the course of doing so, appropriate measures aimed at putting into effect essential human rights standards discussed within the Working Group.

52. The representative of the observer Government of the United States of America stated that his Government welcomed the fact that the draft declaration had, in large part, focused on two fundamental aspects concerning the protection of the indigenous peoples, namely non-discrimination and equality before the law, and their right to preserve and develop their identity. He pointed out that a large number of the provisions contained in the draft declaration would require States to assume overbroad and unrealistic duties. Moreover, several provisions of the draft declaration called for a more precise definition. Many concepts contained in the draft declaration, e.g. the concepts of "self-determination", "peoples", "land rights", etc. were characterized as rights owed to an individual, whereas they should have been conceived as desired objectives rather than rights. The draft declaration should address in a clear and realistic manner the question of the relationship between national law and the control by indigenous peoples over lands and resources, and define in which cases the latter may be limited by the former.

53. The representative of the observer Government of Brazil reaffirmed his Government's deep commitment to the elaboration process of the draft declaration and the importance given by it to the protection of "indigenous populations' rights"; in this connection, he indicated, inter alia, that a thorough revision of indigenous rights in Brazil was presently under way. However, he voiced his Government's concern about the introduction of some potentially controversial wording in the text and in the title of the draft declaration itself. He also expressed concern about the use of the concepts "indigenous peoples" and "self-determination" and, although he welcomed the proposal of the Chairperson/Rapporteur of providing interpretation of these concepts in the final version of the draft declaration, he maintained that this exercise would not eliminate existing doubts. Like the representative of the observer Government of New Zealand, he referred particularly to chapter 26 of Agenda 21, adopted at the United Nations Conference on Environment and Development: this text could be usefully referred to by the Working Group since it contained some of the most advanced principles recognized by the international community with regard to indigenous peoples' protection.

54. The representative of the observer Government of Japan stressed that the historical and the social contexts in which indigenous peoples live, as well

as the world's political and legal systems, varied significantly from country to country, therefore, it was essential that the provisions of the draft declaration be as realistic and flexible as possible.

55. The representative of the Aboriginal and Torres Strait Islander Commission stressed, inter alia, that the elaboration process of the draft declaration should be completed and urged the Working Group to make every possible effort to finalize and adopt the text of the draft declaration by 1993.

56. The representative of the Comision Juridica de los Pueblos de Integracion Tawantisuyana recommended that the provisions of the draft declaration be kept as realistic and flexible as possible.

57. The representative of the observer Government of Norway, who also spoke on behalf of Denmark, Finland and Sweden, made a general statement on standard-setting activities. Reaffirming the strong commitment and genuine interest of the Nordic countries in the ongoing work of the Working Group, he expressed the hope that the final outcome would result in an effective declaration which could actually improve the situation of the world's indigenous people. He endorsed the recommendation made by the representative of the observer Government of Canada with regard to the importance of clarity of language and avoidance of redundancy. In order for the draft declaration to achieve universal acceptance two essential conditions should be met: (a) that the language be sufficiently flexible to apply to the different situations of indigenous peoples as well as the different social and legal systems of the countries in which they live; (b) that flexibility be associated with a firm protection of indigenous peoples' rights within the various systems. Flexible language is imperative when applied to situations concerning the enjoyment and the exercise of land rights by indigenous peoples. Referring to the guidelines on the setting of international standards in the field of human rights, contained in General Assembly resolution 41/120 of 4 December 1986, he welcomed the clearly stated intention of the Chairperson/Rapporteur to ensure that the draft declaration be in accordance with these guidelines. He echoed the statements of the representatives of the observer Governments of Australia and Canada concerning the importance of ensuring that indigenous representatives be able to continue to make substantial input at further stages of the elaboration of the draft declaration.

58. Mr. Chernichenko, a member of the Working Group, shared the view of many other participants that the provisions of the draft declaration should be formulated with a view to reflecting the opinions of all interested parties and encouraging broad consensus. In this connection, he expressed concern about the tendency on the part of a number of representatives to make the rights articulated in the draft declaration too detailed.

59. The representative of the National Indian Youth Council voiced the same concern as Mr. Chernichenko and warned that the trend towards including excessively specific language in the draft declaration entailed two negative consequences: (a) it would inevitably lead Governments to increase their tendency to limit or qualify the language, and (b) it would be conducive to a

draft declaration which would not apply equally to the different circumstances of diverse indigenous peoples. What was ultimately at stake at every Working Group's session was the actual improvement of the conditions of the world's indigenous peoples. Although consensus among States and other relevant actors had not progressed as far as indigenous peoples' expectations, satisfaction should indeed be felt for the fact that consensus now existed on a defined set of principles, and that the Working Group had succeeded in promoting dialogue on the content of indigenous peoples' rights.

60. The representative of Minority Rights Group observed that the reference made to General Assembly resolution 41/120, which calls for the consistency with existing international human rights instruments, was not appropriate. He argued that international human rights law was capable of many interpretations and evolution, accordingly, a rigid borderline between old and new standards could not be drawn, and new standards could be consistent even if they go further than old ones. While throughout the draft declaration references were made to duties of States to take measures to implement the rights contained in the declaration, there was no general measures clause; such a clause should be included, as was the case in the draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities.

61. Thirty-four indigenous peoples' organizations, including eight with consultative status, submitted a written statement recommending that the draft declaration be submitted for technical review by the secretariat on completion of the second reading and that the Working Group hold its twelfth and thirteenth sessions in the Western Hemisphere and in the Asian/Pacific region with the intent of disseminating the text in those regions.

B. Comments on specific provisions of the draft declaration

62. At the 3rd meeting, the Chairperson/Rapporteur, Mrs. Daes, introduced item 4 of the agenda and submitted to the attention of the Working Group document E/CN.4/Sub.2/1992/28, Section B, for consideration. The Working Group proceeded with the first reading of the draft declaration provision by provision, from draft operative paragraph 20 to 30, as well as paragraphs suggested by the Chairperson/Rapporteur for consideration for inclusion without prejudice to their placement, contained in document E/CN.4/Sub.2/1992/28. At the 9th meeting, the Working Group concluded the first reading of the draft declaration and began its second reading from operative paragraph 1. At the 10th meeting, it concluded its second reading after consideration of operative paragraph 14. Before introducing both the first and the second reading, the Chairperson/Rapporteur invited the participants to make amendments, revisions and suggestions to each provision under consideration.

63. During the discussion, certain issues were regarded as particularly important and, accordingly, were the object of a substantial debate, in particular the inclusion of the notion of "self-determination" in the draft declaration. Many references and proposals were also made by some participants based on the report of the tribal summit on the draft declaration, held in Denver in June 1992 (E/CN.4/Sub.2/AC.4/1992/3/Add.1), which were taken into account by the members of the Working Group.

64. Most representatives of observer Governments put forward strong reservations with regard to the inclusion of references to "self-determination". In particular, the representative of the observer Government of Canada affirmed that they were ready to favour the insertion of the principle of self-determination for indigenous people provided that it be understood that the right of self-determination was exercised (a) within the framework of existing nation-States, and (b) in a manner which recognized an interrelationship between the jurisdiction of the existing State and that of indigenous communities, where the parameters of jurisdiction were mutually agreed upon. The representative of the observer Government of Norway, speaking also on behalf of Denmark, Finland and Sweden, stressed that great caution was necessary in relation to the term "self-determination" and urged for it to be qualified carefully, if included in the draft declaration. Like the previous representative, he also specified that any qualification should first of all clarify that the principle of self-determination as embodied in the draft declaration referred to self-determination within the framework of existing States.

65. The representative of one observer Government expressed his concern that, while the term "self-determination" was often used to imply a wide range of autonomous decision-making arrangements short of full independence, operative paragraph 1 of the declaration, in its present wording, might be misconstrued as protecting the right of indigenous peoples to independence as a separate State. His concern was echoed by another representative of one observer Government who stated that including reference to self-determination could not only lead to conflict with international law, but also undermine State sovereignty.

66. The representative of the observer Government of Australia, while recognizing the legitimate concern of States to preserve their territorial integrity, expressed support for the inclusion of language referring to self-determination in the draft declaration. In this connection, he suggested that in order to overcome the concerns voiced by many Governments with regards the inclusion of self-determination language in the draft declaration, a more explicit reference to the 1970 Declaration of Principles of International Law on Friendly Relations and Cooperation among States than that contained in the present operative paragraph 4 should be inserted. The general debate on self-determination as developed in international fora had witnessed the emergence of the view that there might be ways in which the right of self-determination could be legitimately exercised short of the choice of separate status as an independent sovereign State. In his Government's opinion, a system which would guarantee full and genuine participation and fundamental human rights, as well as recognize the special position of indigenous peoples, could provide an adequate and real realization of self-determination. Specific recognition of the right of self-determination for indigenous peoples, as separate and distinct peoples, would assist them to overcome the barriers to full democratic participation in the political process by which they are governed.

67. The Chairperson/Rapporteur, Mrs. E.I. Daes, pointed out that the principle of self-determination, as discussed within the Working Group and as reflected in the draft declaration, was used in its internal character, that is short of any implications which might encourage the formation of independent States.

68. A number of representatives of indigenous peoples maintained that the right to self-determination was an inherent and inalienable right of all nations and peoples which existed independently from recognition from Governments and international organizations. They further stated that the meaning they ascribed to the right to self-determination was that attributed to it by international law. In this connection, they specified that, in addition to the right to determine their own destiny and political, economic, cultural and social structures, the right of self-determination should necessarily encompass the right of indigenous peoples to use and control their own lands and natural resources, to impose taxes, to engage in cross-border trade, to impose their own criminal and civil jurisdiction with respect to indigenous peoples as well as non-indigenous living on their territory.

69. The representative of the Aboriginal and Torres Strait Islander Commission recognized the necessity to insert in the draft declaration some qualifying language accompanying the right to self-determination of indigenous peoples. This approach was preferable to that suggested by the representatives of some observer Governments, i.e. that the concept of self-determination be replaced by the term "self-management"; the use of this term would drastically weaken the draft declaration. Australia's experience had shown that self-determination was an aspirational concept which provided a firm basis for progressively increasing the decision-making powers of indigenous peoples.

70. Mr. Chernichenko proposed to reformulate operative paragraph 1 of the draft declaration with the following new wording: "Indigenous peoples have the right to self-determination. In the context of this declaration, it means first of all the right to autonomy and (or) self-government, including the right to freely determine their political status and institutions and freely pursue their economic, social and cultural development. The realization of this right shall not pose a threat to the territorial integrity of the State."

71. The Chairman of the Board of Trustees of the Voluntary Fund for Indigenous Populations, Mr. A. Willemsen-Diaz, referred to the Charter of the United Nations, the 1970 Declaration on Friendly Relations among States and the 1960 Declaration on Granting Independence to Colonial Countries and Peoples, where the principle of self-determination was recognized as a fundamental human right the enjoyment of which was an essential precondition for the enjoyment of any other human rights and fundamental freedoms. An uncompromising denial of this right to indigenous peoples might lead to potentially dangerous and conflictive situations.

72. An international scholar, Mr. D. Sanders, stressed that some leading international jurists had agreed that, although indigenous peoples did not normally have the right to secession, self-determination could equally apply to them in the forms of self-government or autonomy within existing States. Another scholar, Mr. J. Falkowski, stated that the Working Group was in the process of creating a double standard of self-determination in respect to indigenous peoples, and suggested that the universal language of article 1 common to the international covenants on human rights be used in the draft declaration with the addition of a specific reference to indigenous peoples. This formula would equally solve the problem of inconsistency of the draft declaration with the other international human rights instruments.

73. Reservations as to the use of the term "peoples" in the draft declaration were expressed by many representatives of observer Governments. In particular, the representative of the observer Government of Canada stated that Canada's acceptance of the term "peoples" was subject to the inclusion of a qualifying phrase failing which they would only support the use of the term "people". The representative of the observer Government of the United States of America indicated that his Government could not accept the term "peoples" as presently employed in the draft declaration, and suggested that, if the term was eventually to be retained, the draft declaration should then include a provision equivalent to that contained in the ILO Convention No. 169, which made clear that the use of the term "peoples" in that Convention did not imply the right of self-determination as it was understood in international law. The representative of the observer Government of Japan cautioned against having the term "indigenous peoples" unqualified for this could eventually open the way to subjective definitions and, as a consequence, to confusion. The representative of the observer Government of New Zealand said that, whatever the scope and the meaning of the term "indigenous peoples" in the draft declaration, New Zealand strongly wished that it covered the special position of the Maori people in New Zealand.

74. Some representatives of indigenous peoples contended that the draft declaration should indeed consistently refer to indigenous "peoples". They also argued that it was not for Governments to determine who constituted a nation or a people, since peoples were entitled to decide for themselves.

75. The use of the terms "lands", "territories" and "resources" in the draft declaration raised some doubts. A number of representatives of Governments stated that these terms should be explicitly defined, although this exercise appeared to be very problematic. The meaning and the scope of some related concepts in the declaration, such as the "distinctive and profound relationship" of indigenous peoples to their lands, territories etc., the terms "control" and "traditional occupation" were indicated as both vague and overbroad and therefore difficult to apply in different contexts. The representative of the observer Government of Brazil stated that indigenous peoples in Brazil had the exclusive use of the land they occupied, but added that "lands" belonging to the federal Government were inalienable. Some representatives of indigenous peoples asserted that indigenous peoples had the inalienable right to define their own system of land, sea and ice-sea tenure.

76. In connection with draft operative paragraph 20, several comments were made on the term "compensation", after the representative of the observer Government of Chile had proposed to replace this term with the word "reparation", arguing that the latter had broader historic and economic implications. A number of representatives of indigenous peoples did not support Chile's proposal on the grounds that reparation had a narrower scope in law, whereas "compensation" implied moral justice as well. They also contended that "compensation" had a meaning of ongoing social justice. In this context, Mrs. Daes stated that the members of the Working Group thought that "compensation" was more international in character, and stressed that most national constitutions used the term "compensation".

77. Certain representatives of observer Governments expressed some concern about inclusion in the draft declaration of the concept of collective rights.

One of the them argued that the exercise of collective rights by indigenous peoples could seriously override that of their individual rights. The proposal was also made to use the formula "in community with others" already used in the international standards concerning the protection of minorities' rights, instead of a direct reference to collective rights. In particular, the representative of the observer Government of Japan expressed concern about the recognition in the draft declaration of so many kinds of collective rights as opposed to individual rights, and stated that this approach was unprecedented in international instruments. Support for the inclusion and maintenance of the concept of collective rights in the draft declaration was, on the contrary, strongly voiced by a number of representatives of indigenous peoples.

78. The right of indigenous peoples to "autonomy in matters relating to their own internal and local affairs", was equally subject to considerable scrutiny. The representative of one observer Government suggested that because this right was somewhat imprecise, it needed to be given effect in a flexible manner. It was also stressed that with respect to autonomy, national law should prevail, with only limited exceptions. Another suggestion put forward was to replace "autonomy" by "self-management": objections to this proposal were made with the argument that self-management was merely an administrative concept that did not include decision-making activity. Moreover, representatives of indigenous peoples from Peru and Chile recalled that there existed already a tradition of autonomy in rural communities in their countries.

79. The terms "mental integrity" and "cultural genocide" included in the draft declaration were referred to as undefined and unclear terms by several representatives of observer Governments. The latter also stated that they felt uncomfortable with respect to the inclusion of the concept of "cultural genocide" in the draft declaration.

80. The Chairperson/Rapporteur, Mrs. Daes, explained that the terms "mental integrity" and "cultural genocide" are terms which have been included already in official documents of the United Nations system. Also, she stated that it is her intention to include in her commentary on the draft declaration an interpretation of these terms in order to avoid any misunderstanding.

III. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS POPULATIONS

81. Item 5 was discussed from 27 to 30 July 1992 at the 11th to the 16th meetings of the Working Group. One hundred and sixteen speakers addressed this item. While reviewing recent developments many participants stressed the importance of the draft declaration in the eventual solution of problems faced by indigenous peoples.

A. Right to life and physical integrity and other civil rights

82. Continuing violations of the right to life were a major concern of indigenous representatives: they spoke of mass and systematic killings, including murder and disappearances of indigenous leaders and activists, as

well as deaths in custody. Several speakers referred to massacres which had occurred in the last few months; they also referred to practices of torture, rape, arbitrary arrest and detention and the impunity which accompanied such crimes. Much of this violence was perpetrated by the armed forces.

83. One indigenous representative stated that her Government, through a campaign of road signs, had insinuated that there was a conflict between the rights of private property owners and those of indigenous peoples; the programme had resulted in increasing tension between indigenous peoples and private landowners leading to the massacre of 20 indigenous persons, and later to the murder of the lawyer representing the indigenous community.

84. The representative of another indigenous group discussed what he called his Government's policy of cultural genocide. The Government was transporting non-natives from other areas onto his group's resource-rich traditional lands in order to culturally overwhelm the local population; this policy resulted in increasing tensions between newcomers and the local populations. The representative alleged a programme of forced birth control that was applied only to indigenous women, 10 to 49 years old, to ensure the eventual extinction of his people and the creation of "a new pure human being" in that country. Some indigenous leaders said their communities only numbered about 1,500 to 2,000, each, the last survivors from peoples with distinct languages, customs and cultures. They felt that it was the responsibility of Governments and humanity as a whole to preserve these human civilizations.

85. The representative of the observer Government of Australia informed the meeting of the conclusion of the report by an official commission into aboriginal deaths in custody: that commission had found that isolated acts of unlawful violence or brutality was not the reason for those deaths, but instead the fact that the victims had lived lives of entrenched and institutionalized racism and discrimination. Their deaths were found to be the tragic consequence of two centuries of dispossession, dispersal and appalling disadvantages. The 339 recommendations of the commission aimed at all levels of government policy and called for a detailed regime of accountability.

86. The speaker for an indigenous group asserted that more than 20 natives were shot in response to a peaceful demonstration in support of the implementation of minimum wages. A spokeswoman of a non-governmental organization told of death squads attacking indigenous civilians in her country. Another speaker pointed out that no prison personnel had ever been charged in connection with the unusually high rate of aboriginal deaths in custody.

87. Another indigenous observer spoke about a pattern of discrimination and oppression against his people by two Governments of countries that encompass many of his people's traditional lands. He alleged that one such Government, after offering his people safe refuge in the wake of a change of government, had resumed a policy which included arbitrary detention, torture, summary execution and at least one case of the massacre of civilian demonstrators. In the latter case, no official inquiry had been set up to investigate the case and the Government had taken no action against those responsible.

He also cited the declaration by a high-ranking official of the Government in 1990 calling for the extermination of his people. The representative also accused the second Government of massacres of native civilians.

88. An indigenous spokesman alleged forced enslavement of indigenous people, many of whom died under extraordinarily harsh conditions. He further maintained that native villages had been razed, and the inhabitants relocated to concentration camps. Due process of law in the view of many indigenous representatives was denied. An indigenous representative stated that extrajudicial executions were rampant and widespread violations of rights of detainees were facilitated by repression at a regional level defiant of federal or even regional guidelines.

89. Forced relocation and exile was often faced by any indigenous people it was pointed out. In one instance, the people had been moved and abandoned in the wilderness in plain tents and without any equipment in extremely harsh polar conditions.

90. Referring to scheduled tribes and castes in his country, the representative of a State said that the term "indigenous peoples" did not include those tribes and castes; his country had been a melting pot of civilization for centuries. Certain tribes governed themselves and in the past four decades substantive positive measures had been taken to improve the situation of those people.

91. Several indigenous observers invited the Working Group to visit their areas and witness their plight. They also appealed to Special Rapporteurs of the Commission on Human Rights to do the same.

B. Land and natural resources

92. Indigenous representatives said that their land which had served them for millenia as a source of livelihood and the base of their culture and their very identity was taken away either directly by Goverments or by government-condoned practices of private companies. Such seizure of land often led to violence and murder of indigenous people and in certain cases to mass flows of refugees. Indigenous communities were often involved in lengthy land claims with doubtful results. Improper claims procedures were reported where lands already legally in the hands of indigenous groups were later put into doubt, thus leading to long and expensive court battles.

93. Indigenous representatives mentioned increasing tensions in traditional indigenous lands which were being settled by newcomers from other parts of the country for economic reasons. These settlers tended to disregard indigenous customs and traditions, and the mounting tension had resulted in government claims that indigenous peoples were interferring with national economic development. Another speaker said that his people had been chased away from their sacred lands and the Government had created a national park.

94. The representative of a Government stated that the pace of change had accelerated in his country regarding aboriginal peoples and new partnerships were being built. The native agenda pursued four points, namely, fair and speedy settlement of land claims, improving economic and social conditions,

better relationship between aboriginal peoples and Governments and addressing the concerns of aboriginal people in contemporary life. Twenty specific claims had been settled so far and there were plans that outstanding claims pursuant to existing treaties could be concluded within eight years. Claims were being settled also concerning territories where aboriginal rights had not been dealt with by treaty or other legal means. A new territory would be created and be given to an indigenous group to administer.

95. In some cases, indigenous peoples have been forcibly relocated from their lands by the Government to make room for modern agricultural/industrial interests, in others non-indigenous peoples have been given governmental support to settle native lands and develop them, and in still others Governments have led campaigns equating indigenous land rights with a range of impediments to economic development. Indigenous people had occasionally been prevented from undertaking economic activities on their own land. Moreover, they often had violent clashes with companies which exploited their land.

96. The representative of an indigenous organization reported on a new government plan to expropriate a large area of traditional native land for development purposes without consulting the native inhabitants and without taking into account their agricultural and cultural traditions. He expected that this plan and others would lead to the loss of native cultural identity and traditional means of subsistence, as well as the further dislocation and fragmentation of the indigenous communities in that country.

97. Several speakers made positive reference to a Government's successful completion of a programme to demarcate and set aside a large area of forest territory for a native people. However, they regretted that lack of policing of the area was again resulting in the re-invasion of the territory by prospectors and that lack of funds for health care left indigenous people in a desperate situation with deadly diseases rampant. An appeal was made to the Working Group to submit a resolution about this situation to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

C. Impact of war

98. Some indigenous representatives referred to ongoing internal wars which profoundly affected indigenous communities, these communities, especially in rural areas, were often caught in the middle of such conflicts. In one country, hundreds of thousands of refugees had fled their land. In one country 90 per cent of the refugees were indigenous persons. Indigenous representatives pleaded with the Working Group and the United Nations as a whole to assist them in their desperate situation. They also stressed that a disproportionate number of indigenous people were victims of those wars. Their communities were often forcibly militarized by the army or paramilitary groups which led them into the conflict against their will. Most speakers called on Governments to apply the Geneva Convention on the treatment of civilians.

99. The observer for an indigenous group spoke of his people's armed struggle against the Government which he accused of persistent discrimination. The Government had finally signed a treaty with his people but had not respected

its obligations, thus obliging his group to resort again to armed struggle. During this ongoing crisis he alleged that hundreds of native civilians had been massacred by the army.

100. A number of speakers underlined the difficulty several new democracies were having in controlling their military sectors. There were many cases in which the government's responsibility for human rights abuses by the military was not in ordering those abuses, but in failing to seek appropriate justice for those responsible. A speaker asked his Government to subordinate the military to the civilian government, and to reduce military spending in order to free the economic resources necessary for the advancement of his people.

101. Many of the indigenous speakers from war-torn areas told the Working Group about the dislocations and unsatisfactory conditions suffered by refugees from these areas.

D. Economic, social and cultural rights

102. A number of indigenous representatives discussed the abysmal social conditions of many indigenous peoples particularly in matters relating to health, education, housing and employment. Mention was made of discriminatory measures against indigenous people and of assimilationist policies whereby the white-dominated States imposed their values, laws and religions on indigenous peoples, thus exposing a clearly colonial mentality. An indigenous representative pointed to a decrease in life expectancy in his community of 15-20 years between 1959 and 1989. Another noted that although native peoples constituted a majority of his country's population, literacy rates were significantly lower in the indigenous majority than among the non-indigenous minority.

103. The special problems faced by indigenous women were also emphasized. Illiteracy, poverty, structural inequality, systematic sexual abuse, ill-health and the struggle to raise their family under the most adverse conditions were endemic problems faced by indigenous women.

104. A number of indigenous representatives discussed positive developments and projects taking place in their communities. One representative discussed the expansion of efforts developed by his country's indigenous peoples to establish and manage programmes designed to teach native philosophies and languages in their communities.

105. The representative of a Government said that for the first time, in an amendment to his country's Constitution, the indigenous people were specifically mentioned and it was required that they be consulted in all matters affecting their welfare. He also indicated a number of recent concrete steps taken by his Government to promote and protect the indigenous language including a new right to use the indigenous language before the authorities, the establishment of translation services to make this right practical, and an increase in native language education programmes in indigenous homelands.

106. From the vantage point of numerous indigenous representatives the economic plight amongst indigenous peoples stems from unlimited exploitation of the resources on their lands: exploitation of the land was largely achieved in accordance with bilateral agreements between transnational companies and Governments disregarding the economic well-being of the indigenous people and even trespassing the confines of national laws. An indigenous representative referred to supranational entrepreneurs and suggested that they could only be monitored by an international body.

107. The representative of a Government announced the establishment of a new ministry to better facilitate indigenous activities in four key areas, namely health, education, training and economic resource development. Programmes were under way to fight underachievement in the field of education and ill-health and premature death due to smoking and to face unemployment and social problems. An important decision was that the Government would fund a major forestry programme in a part of the country where there are major indigenous land holdings and where 35 per cent of the total working age population is indigenous.

108. The representative of another Government spoke about specific efforts in the areas of administration of justice, protection of children and families, language and culture. A television network would be established to serve aboriginal people in up to 12 aboriginal languages and dialects. A commission on aboriginal people had been created to examine their economic, social and cultural situation and give guidance for policy into the twenty-first century.

109. Some indigenous representatives felt that insufficient health care was due to the difficulty of reaching traditional territories from well-equipped urban centres, while others argued that unsatisfactory conditions reflected deliberate government policies to entrench the disadvantages of their native peoples. A representative of a non-governmental organization spoke about the unusually high rate of malaria among indigenous forest-dwellers and urged the international community to provide medical aid to the area, while another spoke about the disproportionately high incidence of cholera among her people. Speakers called for the recognition and use of traditional medical processes by official health programmes.

110. In another country, education was free except in rural areas where local peoples are expected to contribute in the form of land for schools and building materials. This results in an important economic disadvantage for the indigenous peoples who live in such areas. The family structure was disintegrating and the impact of colonization made it more difficult to rebuild strong and healthy families.

111. Several indigenous representatives expressed their fears that their Governments neither understood their cultural histories nor respected their right to protect cultural properties. Their concerns ranged from the desire to protect sacred sites from commercial exploitation to the return of ancestral remains from non-indigenous agencies. A number of these speakers suggested that Governments often believed that an inherent conflict existed between the economic development of indigenous peoples and the preservation of their lands, and cultural properties and traditions.

112. A representative from an indigenous group expressed his distress about proposed legislation that would enable local authorities to make decisions with respect to indigenous cultural properties without receiving the accord of the indigenous peoples concerned. Other speakers expressed their concerns about their Governments' unimpeded exploitation of sacred sites for financial gain. Several speakers underlined that freedom of religion was linked to preservation of sacred sites. This freedom was being menaced, inter alia, by the expansion of transnational corporations. One indigenous representative correlated the dependency between freedom, religion and the authority to determine which sites are sacred.

113. One indigenous representative, however, related progress made by his organization, a group specifically set up to promote the protection and return of native cultural properties. In particular, he cited the return of skeletal remains kept by the Government in a national museum for burial on ancestral lands.

114. The representative of a Government stated that his country's Constitution had been revised to include an obligation by the Government to promote the native culture. He also spoke briefly about the formation of a new parliament of the indigenous peoples with consultative status and some executive responsibilities. Representatives of two Governments told the Group that laws had been enacted to allow use of the native language before regional and national courts and other administrative authorities, and that funds had been allocated for translators to make this right practicable.

E. Environment and development

115. Several participants in the Working Group voiced their concern about various national development projects which resulted in violation of the rights of indigenous peoples. A speaker related devastating effects suffered by his community as a direct result of a hydroelectric project initiated by the Government: deleterious effects had been foreseen by his community, and a treaty had been negotiated with the Government, but the Government was not honouring its commitment to provide economic and structural assistance to the community in order to compensate for the damage caused by the project; as a result, living standards in his community had plummeted. The representative of one observer Government stated that his Government was seized of the issues concerning a hydroelectric project in his country and assured the Working Group that the best interests of all the people were being kept in mind.

116. Several Governments believing that numerous remote islands and territories were uninhabited, used these areas to conduct nuclear weapons tests and to deposit nuclear waste; the result was egregious contamination of native homelands. In one indigenous area, land was contaminated at rates 50-100 times higher than in similar non-indigenous lands in the region. Regarding the plight of aboriginal people in his country from nuclear pollution, the representative of a Government said that negotiations were currently under way with the State which had conducted nuclear testing in the 1950s and 1960s, for rehabilitation of the land and compensation. Several indigenous and government representatives commended the results and in

particular the conclusions and recommendations of the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples held in Santiago, Chile, from 18-20 May 1992 (E/CN.4/Sub.2/1992/31).

117. A number of indigenous representatives spoke about the positive relationship between their traditional economic activities and the environment. Many expressed the fear that the development of their territories by industrial concerns was resulting not only in the abrogation of their collective land rights but in irreparable damage to the environment. The need for sustainable development policies was underlined several times. Representatives of indigenous groups discussed the destruction of traditional lands by mining interests, the negative impact on the livelihood of the communities of excessive fishing and shipping, of water pollution caused by logging industries and mining and oil interests. Other speakers discussed the Governments' destruction of the forest, the traditional habitat of the people, in order to create pastures for agricultural development and animal breeding. Deforestation and toxic waste dumping were mentioned by several participants as destructive practices threatening the environment and the life of indigenous communities.

118. Speakers for indigenous peoples pointed to the forced expulsion of native peoples from their lands so that Governments could increase the logging and oil concessions to multinational corporations. A speaker described these forests as one of the most important biologically diverse resource bases left in the world. One indigenous spokesman referred to the destruction of his people's traditional economic base and asked that a United Nations study be undertaken in order to provide for the establishment of extraterritorial responsibilities of foreign Governments vis-à-vis indigenous peoples.

119. A number of speakers exposed the dark side of a trend within the international development community to promote the development of agricultural export industries: many countries, in developing such policies, were turning over native lands to large-scale agricultural concerns; this was leading to increasing income disparities at the expense of indigenous peoples. At the same time, instances were mentioned where government regulations limited the rights of indigenous peoples to practise their traditional economic livelihoods. One government representative informed the Working Group that his country had allocated approximately $2 million to support development projects for indigenous peoples around the world, and urged other Governments which were in a position to do so, to take similar action.

120. An indigenous representative stated that environmental degradation had effects on the health of people and entailed long-term transformation of the ecosystem. He said that the natural pastoral land had been eradicated and replaced by monoculture of the land requiring capital and labour intensive input, causing large foreign debt and input of migrant non-indigenous workers. The appeal of indigenous representatives was to foster a self-sustaining environment with their guidance and participation and to put limitations on the spread of toxic substances by pressuring Governments and transnational corporations.

121. According to some indigenous speakers, the recently held United Nations Conference on Environment and Development provided a new forum on which indigenous peoples could act to put forward their philosophy and proposal regarding the environment.

F. Self-determination and political participation

122. Indigenous participants described their recent efforts to have their political status recognized. Several complained that their indigenous status was not officially recognized by the Governments and referred to assimilationist policies, including by force, in their regard. A number of these speakers stressed that the right to self-determination was an inherent right of indigenous peoples and should be recognized with full content given to this right by international law. Its denial by Governments indicates the use of a double standard and racial discrimination.

123. An indigenous representative pointed out that in ongoing negotiations between two countries regarding Northern Territories, the original inhabitants of those countries had not been consulted; they were neither recognized as a minority nor as an indigenous peoples. Another speaker stated that people were of the view that their inherent right to self-determination included the right to own and use their own resources and that secession was not desired by his people. An indigenous representative observed the blatant lack of representation of his people in government, despite the fact that in some States of the country they constituted 80 per cent of the population.

124. A government representative referred to constitutional reforms under way regarding the aboriginals, including national institutions and aboriginal self-government. The constitutional discussions took place with full aboriginal participation: proposals included (a) the recognition of the inherent right of self-government, and (b) that aboriginal Governments would be constitutionally recognized as a third order of government, joining the federal Government and the Governments of the provinces. Ministers and aboriginal representatives have agreed to the principle of guaranteed aboriginal representatives in a reformed senate as well as aboriginal consent to future constitutional amendments that directly refer to them.

125. The representative of another State underlined the support of his Government for the incorporation of the concept of self-determination in the draft declaration. The term would, of course require careful analysis. Within the process of reconciliation in his country a mixed council created in 1991 was working towards (a) promoting a deeper understanding by all of the history, cultures, past dispossession and continuing disadvantage of aboriginal people and of the need to redress that disadvantage; (b) fostering a commitment from Governments of the federation to land, housing, law and justice, cultural heritage, education/employment health, infrastructure, economic dependence and other relevant matters; and (c) consulting with all the communities on whether reconciliation would be advanced by a formal document and to make recommendations on the nature and content of such document. The representative also referred to the recent decision of the highest court of this country which had put an end to the offensive and essentially racist notion of terra nullius which asserted that the land was "empty and unoccupied", and by which the oppression of the indigenous peoples of the country was justified.

126. An indigenous representative underlined the importance of recognizing collective rights regarding indigenous peoples. Several representatives of aboriginal groups applauded a recent court decision invalidating the long-standing doctrine of terra nullius, thereby setting legal precedent they hoped would invalidate numerous decisions made on the basis of this doctrine. In another case, however, a recent high court decision of a country had pronounced that the doctrine of terra nullius to be invalid and substituted by what he considered an equally offensive, Eurocentric notion, that of "discovery", by which land occupied was deemed to be settled legitimately because the doctrine of discovery gives exclusive title to whoever makes the discovery and extinguishes native title.

G. Treaties and other legal arrangements

127. Indigenous and State representatives referred to recent developments regarding treaties and other arrangements. Indigenous speakers from a country described the recent constitutional process in their country. They expressed concern that if one of the federal States seceded, it would claim indigenous land which is still under question. The representative also called for the repudiation of a treaty concluded between his people and the Government under duress, i.e. under the threat of a hydroelectric project.

128. The representative of a Government informed the Working Group that direct negotiations involving the aboriginal people and the Government were under way on a number of major claims; the Government remained committed to the goal of settling claims by the end of this decade. A historic agreement was announced last year on a procedure by which surplus land held by a company would be disposed of while enabling the aboriginal interests to be protected. The Government would soon complete the transfer of 10 percent of the fishing quota to the aboriginal community.

129. The representative of another Government informed the meeting of a constitutional process in his country to clarify or implement treaty rights. Proposals included a provision directing the courts to interpret treaties in a just, broad and liberal manner. The intent of the process and the interpretation was not to reopen treaties or land claims agreements, but to ensure that treaty provisions would be respected.

130. Several indigenous representatives observed the non-implementation of treaties concluded between the States and their people called for the respect of their treaties. Speakers called for an independent international monitoring mechanism for such treaties.

131. Referring to a number of positive legislative measures of Governments, some indigenous speakers regretted that such measures had not been accompanied by adequate funds or political will and thus remained unimplemented. In one country, for instance, although a large percent of the population was indigenous, government leaders were non-indigenous.

H. Contributions of intergovernmental organizations

132. The representative of the International Labour Office (ILO) discussed the contributions made by his organization to the promotion of the rights of indigenous peoples. He reported that the Indigenous and Tribal Peoples Convention (No. 169/1989) had received four ratifications with a fifth one pending. In several other countries, executives had endorsed the Convention and passed it to national legislatures for ratification. He also noted an increase in the technical assistance activities of the ILO. In particular, special projects had been developed to assist and cooperate with forest-dwelling indigenous communities in certain regions. A joint ILO/IFAD mission to two countries was undertaken in September 1991 to discuss with national authorities and indigenous organizations a programme to protect the land rights of indigenous peoples, and to initiate a series of pilot projects to enhance the capacity of indigenous communities to manage health, bilingual education programmes, and marketing of local products. Another small-scale pilot project undertaken in a developing country was designed to ease the working conditions of indigenous women. Finally, the ILO is currently working on several pilot projects to improve the legal situation of indigenous communities and to ameliorate their living and working conditions.

133. Another speaker informed the Working Group that the Organization of American States (OAS) is working to contribute to the evolution of international law for the protection of the rights of indigenous people, and urged indigenous representatives to contact the organization in order to increase their participation in the process.

IV. STUDY OF TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS PEOPLES

134. The item was discussed at the 17th meeting of the Working Group on 31 July 1992. The Special Rapporteur, Mr. Alfonso Martínez, gave an oral presentation on his first progress report: the report, in written form, would be made available soon at the Sub-Commission. It had not been possible for him to submit it to the Working Group due to unexpected academic commitments in his country, recent ill health and various technical difficulties. Since September 1991, considerable progress had been made thanks to the expert assistance of the Centre for Human Rights and the consultant who had worked on this matter. In the past year, Mr. Martínez was able to draw very positive experience regarding his work, in particular by attending the Santiago Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples in May 1992. He said that he needed to visit Sevilla a second time in order to complete his research there.

135. The Special Rapporteur had received 15 replies to his questionnaire, seven of which were from Governments and the rest from indigenous and non-governmental organizations; they had been very helpful, but many more were still necessary. He urged all concerned and especially the indigenous peoples themselves to provide him with their interpretation of their own situation by answering the questionnaire as soon as possible. Turning to the substance of his report, the Special Rapporteur addressed the methodological problems he would handle. Due to the multiplicity of cases and their considerable

diversity, he had to construct an appropriate typology of cases; anthropology and social sciences would also be helpful in this regard, not least regarding issues of cultural relativism and ethnocentricity. The jurisprudence of international, regional and national courts would also be explored. He would address five typical cases: (a) treaties; (b) agreements, i.e. texts which are not of an international nature; (c) other constructive arrangements, which according to his mandate had to be studied; however, this posed the problem of what arrangements were seen as constructive by both parties; in essence, they were decisions by Governments; from his research, he had only identified one such case where both parties saw an arrangement as constructive, namely the Danish Law by which autonomy was granted to Greenland, (d) bilateral or multilateral treaties where indigenous peoples were considered as third parties; and (e) cases which did not belong to the above categories; these covered situations affecting many indigenous people from all over the world. To be able to review and analyse the voluminous information already gathered, the second (and final) progress report should be submitted to the twelfth session of the Working Group and the forty-sixth session of the Sub-Commission. The Special Rapporteur would then be in the position to submit his final report in 1995 to both bodies.

136. The Chairperson/Rapporteur, emphasizing the importance of the study on treaties, addressed an appeal in particular to the indigenous peoples to reply to the questionnaire prepared by the Special Rapporteur as soon as possible.

137. Indigenous representatives expressed their full support for the study and underlined its importance. Several speakers invited the Special Rapporteur to visit their countries and to make use of the documentation their organizations had prepared on this issue. They asked the Special Rapporteur to make special reference to the question of treaty implementation and spoke of violations by Governments of negotiated treaties. Other speakers suggested that some treaties signed by their peoples had been negotiated under conditions of duress, including economic hardship and the deprivation of the right to life; they therefore questioned the validity of these pacts and asked the Rapporteur to address this issue. One representative of an indigenous people asked the Special Rapporteur to examine the pattern of treaties existing in his region between indigenous nations before the arrival of colonial powers. Another participant stated that the courts in his country consider treaties with indigenous peoples as agreements, something less than treaties between States; he complained about this distinction because the indigenous peoples understood that they had signed treaties as nations.

138. The representative of the Government of Canada clarified a remark made by the Special Rapporteur regarding a pact negotiated with one of the indigenous peoples residing within Canada's borders by restating that such a document was indeed considered by his Government as a "modern treaty".

139. Several indigenous peoples' representatives underlined the fundamental importance of land rights in treaties: respect for the land rights associated with treaties was a prerequisite for improved living conditions for their peoples.

140. Another Government representative said that a treaty would be a possible outcome of a decade-long programme of reconciliation now under way in his country and hoped that the Special Rapporteur's study would be finished in time to make a contribution to those negotiations.

141. Responding to some of the comments made, the Special Rapporteur took notice of the difficult problems posed by treaties that were not recognized internationally. He reiterated that his mandate was to study both historic and modern treaties and, of course, the potential utility of these and other juridical documents for securing better relationships between indigenous peoples and States.

V. OTHER MATTERS

A. International Year for the World's Indigenous People

142. Item 7 on the International Year for the World's Indigenous People was discussed at the 18th meeting of the Working Group on 31 July 1992. Introducing the item the Chairperson/Rapporteur said that the highest priority should be given to the completion of the text of the draft declaration of the rights of indigenous peoples in 1993 at the level of the Working Group. She suggested that the United Nations launch, during the International Year, a comprehensive programme to document the conditions in which indigenous peoples live around the world. It has already been a decade since the publication of the Martinez Cobo study and it has never been updated and some of the data used is 20 or 30 years' old; indigenous peoples have brought a great wealth of information to the annual sessions of the Working Group which has never been published. Beginning next year, the United Nations should produce annual reports on the state of the world's indigenous peoples which should include the information already being collected on transnational corporations as well as data on health, education, and the enjoyment of human rights, and legal materials on cultural and intellectual property.

143. Meaningful and active indigenous participation is fundamental to the success of the International Year, which has as its theme "Indigenous Peoples - A New Partnership". The activities must be planned and implemented with their full cooperation and consent at national, regional and international level; this cooperation should not end when the International Year is concluded, however, but should become the basis for all future United Nations activities affecting indigenous peoples. Careful consideration should be given to the proposals already made by some indigenous organizations, for the establishment of a permanent United Nations council or forum of all the world's indigenous peoples. Such a body could bring the concerns indigenous peoples and governmental representatives have been expressing here in this Working Group to the other bodies and organs of the United Nations system, not only in the field of human rights but also in fields such as environment, development, health, education, peace and security. The Chairperson/Rapporteur appealed to the world mass media to inform public opinion about the International Year for the World's Indigenous People and to United Nations bodies and the specialized agencies to make their contribution to the success of the above-mentioned International Year. Finally, she invited the participants to attend the resumed Technical Meeting which would take place from 3 to 5 August and to contribute to the planning of the Year.

144. All the participants who spoke on this item expressed their full support for the International Year. Indigenous and governmental representatives alike stressed that it was essential for indigenous peoples to participate in the planning, implementation and evaluation of activities of the Year, including the activities related to the launch of the Year on 10 December 1992. The United Nations Children's Fund, United Nations Development Programme, International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization were urged to participate in making the Year a success. Alerting public opinion to issues of concern to indigenous peoples was considered a fundamental aim.

145. The representative of the ILO stated the intention of his Organisation is to take an active part in the Year; a detailed set of proposals had been discussed by the ILO Governing Body earlier this year and had received full support. Activities would include the issuing of six posters, a handbook on technical cooperation assistance, a book on land tenure questions and promotional efforts for the ratification of ILO Convention No. 169. Regarding the suggestion about compiling data on indigenous peoples around the world, the representative said that the ILO could work together with the United Nations Working Group on Indigenous Populations and the secretariat of the Centre for Human Rights on this matter.

B. Meetings and seminars

146. Item 8 on meetings and seminars was discussed at the 18th meeting of the Working Group, on 31 July 1992. Introducing the item, the Chairperson/Rapporteur, Mrs. E.A. Daes stated, inter alia, that the Nuuk Meeting of Experts was of historic importance: its valuable conclusions and recommendations constitute significant guidelines in particular for the interpretation and application of the concepts of "self-determination", "autonomy" and "self-government"; she expressed her gratitude to the Government of Denmark for all the assistance provided to the experts. She also expressed her gratitude to the Government of Chile for all the assistance given to the Santiago technical conference on environment and indigenous peoples.

147. The representative of Denmark and the Greenland Homerule Government reminded the participants that racism could not be combated by a policy of assimilation of the few by the many. She urged the Chairperson to adopt the recommendations of the Nuuk Meeting of Experts in particular the recommendation to establish a mechanism for monitoring the rights of indigenous peoples.

148. The representative of Chile, which hosted the Santiago technical conference on environment and indigenous peoples, believed that the meeting had been instrumental in establishing the relevance of traditional practices to sustainable development; programmes should be developed to promote women in environmental conservation. He mentioned with satisfaction the establishment of a new fund for the development of indigenous people in Latin America and the Carribean, and urged other governments to pursue similar programmes.

149. A representative of the Cree Youth of Canada referred to the First World Conference on Indigenous Youth which had taken place in Quebec in July 1992.

The representative of Aboriginal Youth of Australia announced that a Second World Conference on this theme was being prepared in Darwin, Australia, for June or July 1993 as a contribution to the International Year. Most participants who took the floor under this item welcomed the organization of specialized seminars and looked forward to future conferences in other parts of the world where indigenous people live.

C. Study of the ownership and control and of the cultural property of indigenous peoples and note by the secretariat on the protection of intellectual property of indigenous peoples

150. In introducing item 9 on other matters; the Chairperson/Rapporteur drew the attention of the participants to her working paper (E/CN.4/Sub.2/1991/34) on the cultural property of indigenous peoples and informed the participants that the Economic and Social Council approved the appointment of a consultant for three months in order to assist her in elaborating the aforementioned study: the consultant should be an indigenous personality with deep knowledge of the above-mentioned study. She wished to elaborate a very comprehensive study, which according to decision 1992/114 of the Commission on Human Rights, will be submitted to the Sub-Commission at its 1993 session. It was her intention to devote a relevant part of the study to the subject related to the intellectual property of indigenous peoples.

151. A number of speakers thanked the Special Rapporteur for the work she has already accomplished on ownership and control of the cultural property of indigenous peoples, and discussed historic patterns of violations of indigenous cultural and intellectual property rights and related developments. Representatives of non-governmental and indigenous organizations stressed the need for immediate action to protect indigenous intellectual property; traditional science was one of the last remaining resources of developing countries, and that "bio-prospecting", was the modern equivalent of "gold prospecting" or piracy. They expressed the fear that an important amount of indigenous intellectual property would be unethically expropriated within the next five to ten years, and appealed to Western scientists to exercise self-discipline.

152. Emphasizing the significance of cultural property for the identity and spirituality of indigenous peoples, the representative of one Government described a new national law recognizing indigenous ownership of its cultural property and the skeletal remains of its ancestors. However, an indigenous representative from the same country disputed the claim that the protection of intellectual property in that country was assured. She said that the unauthorized reproduction of indigenous works continued and emphasized the importance of restitution of cultural property including burial artifacts, skeletal remains, and spiritual and sacred items. She concluded that the existing legal framework remained deficient.

153. An indigenous representative of one country announced that a conference was to be held in 1993 to develop international guidelines to protect the cultural and intellectual property of indigenous peoples. This was to be an International Year for Indigenous People event and interested parties were urged to attend. One museum was commended by several speakers for its

decision to return skeletal remains to indigenous descendants. At the same time, they noted continuing reluctance by other collecting institutions on this subject, and in at least one case, a stepped up effort to collect skeletal remains and burial artefacts.

154. Several representatives recommended that the Special Rapporteur's study on cultural property should be expanded to include a discussion of intellectual property rather than beginning a separate study on the latter. Referring to paragraph 29 of the Secretary-General's paper on intellectual property, and the numerous suggestions made at the Working Group that the protection of intellectual and cultural property might overlap in many cases, the Special Rapporteur assured the participants that this problem would be avoided and that she would study their proposals carefully.

D. Voluntary Fund for Indigenous Populations

155. The Chairman/Rapporteur introduced this sub-item and underlined the great importance of the Fund and the valuable assistance given to a great number of indigenous peoples every year in order to attend the sessions of the Working Group. She appealed to the Governments to continue to make contributions to the Fund.

156. Several Governments referred to their contributions to the Voluntary Fund for Indigenous Populations, and one non-governmental organization referred to its contribution to the Fund as well as to its ongoing fund-raising campaign to finance development projects for indigenous peoples.

157. The Chairman of the Board of Trustees of the Voluntary Fund for Indigenous Populations expressed his gratitude to several Governments and non-governmental organizations for their contributions. In 1992, the Voluntary Fund had been able to finance 41 participants from 19 countries to come to the Working Group. There was some debate about using Fund resources to extend per diem disbursements to allow the recipients to remain in Geneva for three more days in order to attend the upcoming Technical Meeting on the International Year. The Chairman of the Voluntary Fund explained that according to the mandate of the Fund it was impossible. However, the Chairman/Rapporteur of the Working Group expressed the opinion that on the basis of a broad interpretation of the mandate of the Fund, the members or the trustees could adopt a decision helping the indigenous participants to prolong their stay in Geneva for the above-mentioned reasons. Also, a representative of a Government expressed his belief that the mandate for the Voluntary Fund should be broadened to cover the participation of indigenous representatives at other important fora as well.

E. Any other matters

158. The indigenous peoples of two countries made a joint declaration in which they announced their intention of holding a conference to cement their friendship and cooperation, and to publicize their effort to have a group of islands returned to their original inhabitants.

159. The representative of one Government brought up the question of how to assert the social, political and economic rights of indigenous people

into the agenda of the United Nations as a whole. He also suggested that the United Nations institute a programme of training courses on indigenous territories on such subjects as traditional medicine, environmental practices and customary international law.

160. A number of suggestions were made regarding the future work of the Working Group. The representative of an indigenous organization suggested that the Group should monitor, evaluate and publicize recent developments related to the human rights of indigenous peoples, and print an annual survey of global conditions on a country by country basis. He also asked the United Nations to continue its research on the impact of multinational corporations and urged the indigenous groups to provide more information and data about the effect of corporate policies on their lifestyles. Finally, he requested that the United Nations publish information about indigenous law and legal systems.

161. The representative of the Government of Australia, the Federal Minister for Aboriginal and Torres Strait Islander Affairs, Mr. Robert Tickner, expressed his deep appreciation for the valuable contribution of the Working Group during the first decade of its existence and offered a number of suggestions, regarding its future role. The Working Group is, and must remain, a continuing reminder to the international community of the collective social, economic, cultural and political concerns of indigenous peoples and continue to serve as a free and democratic forum in which a continuing constructive dialogue will take place between Governments and the world's indigenous people. After the Working Group has agreed to the draft declaration, it will be vital to ensure that the effectiveness of the Group is maintained and enhanced; this would be an important part of the follow-up to the International Year for the World's Indigenous People. The following proposals, could help the Working Group to give effect to the full potential of its existing mandate: enhancing its review of developments to include more detailed analysis and conclusions where appropriate; broadening its approach to standard-setting, so as to include analytical commentary and ongoing suggestions as input to consideration by other United Nations bodies of the draft declaration after it has left the Working Group; reviewing other international standard-setting activities relevant to indigenous peoples; reviewing standard-setting developments at the national level; continuing to prepare appropriate and well-targeted studies on an ongoing basis on issues of concern to indigenous peoples; making recommendations as to the provision of technical assistance available from other areas of the United Nations' human rights programme to States, national institutions and other organizations, in order to promote the human rights of indigenous peoples; providing expert advice to Governments and relevant organizations on request.

162. The representative of the observer Government of Australia added that, once the United Nations declaration on the rights of indigenous peoples is adopted, the Working Group should encourage states to report on their efforts to give effect to its provisions. He suggested that as a follow-up to the revised and updated Martinez Cobo study, a supplementary study should be undertaken within the Sub-Commission, of issues of particular relevance to indigenous peoples and of the means to address these problems. Such a study could survey the contemporary situation and provide options for future work on these issues by the United Nations and the international community. As to the

future of the draft declaration, it was his Government's view that the draft declaration should be provisionally adopted by this Working Group in 1993, as a major contribution to the International Year for the World's Indigenous People. The Sub-Commission could then submit the draft declaration as provisionally adopted by the Working Group to the Commission on Human Rights at its 1994 session. It would be usual practice for the Commission on Human Rights, when considering a draft international instrument as important as this, to refer it to a working group of the Commission for examination. It would also be usual for such a working group to be open-ended, to allow for non-governmental participation. Because of the particular importance of Governments being directly appraised of the aspirations of indigenous people, his Government believed that the normal procedures should be interpreted flexibly so as to allow for the widest possible NGO participation. Such a working group should take place in the week immediately prior to sessions of this Working Group to maximize continued participation by indigenous peoples.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. Standard-setting activities

163. The Working Group decided to make every effort to complete its work on the draft universal declaration on the rights of indigenous peoples at its eleventh session in 1993, the International Year for the World's Indigenous People, so that the text would be ready to be reviewed by the relevant bodies of the United Nations in 1994.

164. The Working Group recommended that its report, including the complete text of the draft universal declaration on the rights of indigenous peoples as amended and agreed upon by its members at first reading (annex II), be circulated to Governments, indigenous peoples, and intergovernmental and non-governmental organizations for their written comments and suggestions.

165. The Working Group recommended that the Chairperson-Rapporteur, Mrs. Erica-Irene A. Daes, be entrusted with the task of further elaborating the paragraphs of the draft universal declaration which were agreed upon at second reading; it also recommended that the elaborated paragraphs be circulated among its members for their comments and suggestions. The text, as revised in accordance with the aforementioned comments and suggestions of the members, should be sent to Governments, indigenous peoples, intergovernmental and non-governmental organizations so that their reactions could be sent back to the Centre for Human Rights well in advance of the Working Group's eleventh session.

166. The Working Group recommended that its eleventh session be allocated 10 working days with full language services. It further recommended that members of the Working Group meet in closed session for five days prior to the eleventh session of the Working Group in order to consider the comments and suggestions received from Governments, indigenous peoples, intergovernmental and non-governmental organizations, and to review the structure of the draft declaration and identify remaining difficulties, gaps or ambiguities in the text.

167. In view of the fact that the draft universal declaration may be adopted by the Working Group and the Sub-Commission in 1993, the Chairperson-Rapporteur was invited to make written proposals for ways of ensuring full indigenous participation in any consideration of the draft by higher bodies of the United Nations, as well as recommendations for the implementation of the declaration, in particular as this concerned the future role of the Working Group.

B. Review of developments

168. The Working Group encouraged the continuation and intensification of the constructive dialogue which had begun to develop at its sessions between the representatives of indigenous peoples, the members of the Working Group and Governments. The Working Group reiterated its conviction that such a dialogue, conducted in an atmosphere of good faith, good will and confidence, could be very helpful to ongoing United Nations efforts concerning all aspects of the recognition, promotion, protection and restoration of the rights of indigenous peoples.

169. In view of the richness and importance of the information provided to the Working Group each year by representatives of indigenous peoples and Governments, and the potential value of stimulating a wider, year-round exchange of views, the Working Group reiterated its recommendation to the Sub-Commission and the Commission on Human Rights that its annual report should be made more widely available by reprinting it as a United Nations publication.

170. The Working Group reaffirmed its belief that the effectiveness of the work would be greatly enhanced by convening some of its future sessions in other regions, in particular Latin America, Asia and the Pacific.

171. The Working Group recommended that, to mark the International Year for the World's Indigenous People, the United Nations should launch an annual report on the state of the world's indigenous peoples, including statistics and analyses compiled by relevant United Nations bodies and specialized agencies such as the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund, and the World Health Organization, and the Transnational Corporations and Management Division (TCMD) of the United Nations Secretariat in collaboration with indigenous peoples and their organizations; those reports should be published as United Nations sales publications to ensure their widest possible distribution. The Working Group recommended to the Sub-Commission and the Commission on Human Rights that they submit this proposal to the Economic and Social Council.

172. The Working Group commended indigenous peoples' organizations for their continuing efforts to exchange information and experiences among themselves at the regional and international levels, through conferences and meetings on topics of particular concern to them. In particular, the Working Group warmly welcomed the holding of the First World Indigenous Youth Conference at Quebec City, Canada, in July 1992, and looked forward with great interest to the Second World Indigenous Youth Conference at Darwin, Australia, in 1993.

173. The Working Group also expressed its appreciation of the efforts made by indigenous peoples and Governments towards the equitable and peaceful resolution of disputes and the negotiation of new political arrangements for sharing power and responsibility at the national level. The Working Group was of the view that respect for human rights and the establishment of an open public dialogue by all parties was essential to such efforts.

C. Seminars and meetings

174. The Working Group expressed its profound satisfaction at the reports and recommendations of the meeting of experts on indigenous self-government held at Nuuk, Greenland, in September 1991 (E/CN.4/1992/42 and Add.1), and the technical conference on indigenous peoples and the environment held at Santiago in May 1992 (E/CN.4/Sub.2/1992/31 and Add.1). The Working Group extended its sincere appreciation to the Home Rule Government of Greenland and to the Government of Chile for hosting those important meetings. The Working Group recommended to the Sub-Commission and the Commission on Human Rights that they approve the publication and widest possible distribution of the reports as part of the World Public Information Campaign for Human Rights.

175. Mindful of the recommendations of the Nuuk and Santiago meetings, the Working Group further decided to request the Centre for Human Rights to prepare a handbook on the experiences of indigenous peoples in self-government, with the assistance of indigenous peoples.

176. The Working Group recommended that the Sub-Commission and the Commission on Human Rights request the Programme of advisory services in the field of human rights, as well as other relevant United Nations programmes of technical assistance, to provide training for indigenous peoples on issues of interest and concern to them and also recommended that future United Nations seminars and expert meetings on indigenous issues continue to be convened in regions and countries with the greatest numbers of indigenous peoples, and that they continued to involve indigenous experts nominated by indigenous peoples as well as government experts.

177. The Working Group welcomed the recommendations regarding indigenous peoples which were adopted by the United Nations Conference on Environment and Development, held at Rio de Janeiro in June 1992, and expressed the hope that the General Assembly would implement them as a matter of high priority.

178. In view of the fact that the World Conference on Human Rights would take place during the International Year for the World's Indigenous People, the Working Group encouraged the Preparatory Committee for the Conference to consider convening a special preparatory meeting for indigenous peoples early in 1993. The Working Group expressed the view that the struggle of indigenous peoples to claim and exercise their rights over the past 20 years was an important case-study for evaluating the United Nations human rights programme and its future directions, and that such a case-study should be presented to the Conference by indigenous peoples themselves. The Working Group moreover encouraged the Preparatory Committee to ensure that indigenous peoples were able to participate fully in the Conference without regard to consultative status, as they were able to do at the United Nations Conference on Environment and Development at Rio de Janeiro in June 1992.

D. Studies and reports

179. The Working Group expressed regret at the delay in the submission of the second report of the TCMD (formerly UNCTC) which was occasioned by the recent reorganization of the United Nations Secretatriat, and reaffirmed the importance which it attached to the continuing refinement, expansion and improvement of the database on transnational investments and operations on the lands of indigenous peoples in accordance with Sub-Commission resolutions 1989/35 and 1990/26. The Working Group requested TCMD to continue to submit annual reports summarizing the information received, as well as analyses, conclusions and recommendations, and to continue to seek budgetary and extrabudgetary resources to provide technical assistance to indigenous peoples in the fields of impact assessment and negotiations. The Working Group also appealed to all indigenous peoples' organizations to participate actively in this important study.

180. The Working Group expressed its appreciation to the Special Rapporteur, Mr. Miguel Alfonso-Martínez, for the oral presentation of his progress report on treaties, agreements and other constructive arrangements between States and indigenous peoples (E/CN.4/Sub.2/1992/32). However, the Working Group expressed its regret that it had not been possible for the Special Rapporteur, owing to the reasons he described, to submit his report in writing in accordance with Sub-Commission decision 1991/111. The Working Group decided to discuss his first progress report at its eleventh session in 1993. The Working Group also put on record its gratitude to those Governments and indigenous peoples' organizations which had responded to the questionnaire contained in the report on its eighth session and decided to reproduce the questionnaire as a separate annex to the report on its tenth session and to circulate it once again to Governments, intergovernmental organizations and indigenous peoples' organizations, requesting them to submit information not later than 15 January 1993 so as to permit the Special Rapporteur to take their information into account in his next progress report to the Working Group at its twelfth session and to the Sub-Commission at its forty-sixth session. The Working Group also requested that the Special Rapporteur be provided with all the assistance he needed for the further elaboration of his important study.

181. The Working Group welcomed the approval by the Economic and Social Council of its recommendation that Mrs. Erica-Irene Daes be entrusted, as Special Rapporteur, with a study of the ownership and control of the cultural property of indigenous peoples. The Working Group warmly endorsed the Special Rapporteur's plan to employ an indigenous scholar with deep and wide experience in this field as a consultant, and recommended that the study include preliminary views as to the feasibility of developing a United Nations manual of indigenous laws with respect to ownership and control of cultural property.

182. The Working Group also expressed its appreciation to the Secretary-General for his concise report on protection of the intellectual property of indigenous peoples (E/CN.4/Sub.2/1992/30). Conscious of the great importance which was attached to this issue by the United Nations Conference on Environment and Development, the United Nations technical conference on indigenous peoples and the environment held at Santiago, and by the

indigenous participants at its tenth session, the Working Group invited the Special Rapporteur to consider, inter alia, the relationship between indigenous cultural and intellectual property and to include in her progress report relevant views, information, data and bibliography, as well as recommendations for further research and action, and recommended that the title of her study be revised to, "Protection of the cultural and intellectual property of indigenous peoples".

183. The Working Group also urged UNDP and other competent United Nations bodies and specialized agencies to give priority consideration to projects aimed at strengthening indigenous peoples' own capacities for ecological and medical research and development and for improving their control over research conducted within their territories.

E. International Year for the World's Indigenous People

184. The Working Group welcomed General Assembly resolution 46/128, containing the principal theme, "Indigenous Peoples - A New Partnership", and suggested programme of activities for the International Year. The Working Group emphasized again the fundamental importance of full participation by indigenous peoples in every aspect of decision-making concerning the Year, at the national, regional and international levels. The Working Group authorized its Chairperson-Rapporteur to represent the Working Group at the opening ceremonies.

185. The Working Group reaffirmed the importance it attached to the evaluation of the International Year by Ms. Christy Mbonu, and expressed the hope that this would be taken into account in connection with paragraph 8 of Commission on Human Rights resolution 1992/45 and paragraph 12 of General Assembly resolution 46/128. Accordingly, the Working Group recommended that Ms. Mbonu be invited to participate at the opening ceremonies of the Year.

186. The Working Group appealed to Governments, intergovernmental and non-governmental organizations and international educational and business institutions, as well as to individuals, to contribute generously to the voluntary fund established to support United Nations activities during the International Year for the World's Indigenous People.

F. Other matters

187. In the light of the great success of the First World Indigenous Youth Conference, the Working Group encouraged the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization and other relevant United Nations organs and specialized agencies to consider ways of supporting such meetings and of strengthening the role of indigenous youth in world affairs. The Working Group also urged the United Nations University to establish affiliations and exchange programmes with indigenous educational institutions and recommended that United Nations schools invite indigenous youth to participate in their regular teaching programmes as guest instructors, to build linkages with non-indigenous youth from all countries.

188. The Working Group expressed its deep gratitude to Governments, indigenous peoples, individuals and non-governmental organizations for contributions made to the United Nations Voluntary Fund for Indigenous Populations. In the light of the pressing need to ensure the greatest possible indigenous participation in the completion of the draft universal declaration on the rights of indigenous peoples, the Working Group encouraged continued and increased contributions to the Fund. The Working Group also recommended that the Sub-Commission and the Commission on Human Rights recommend that the Fund be authorized, as a secondary priority, to assist indigenous participation in other relevant United Nations meetings, such as meetings of human rights treaty bodies and the proposed Commission on Sustainable Development.

189. The Working Group reiterated its belief that the Programme of advisory services in the field of human rights should play an important role in the recognition, promotion, protection and restoration of indigenous rights, by providing information and training directly to indigenous organizations and communities. The Working Group therefore appealed once again to Governments and non-governmental organizations to consider making special contributions to the Voluntary Fund for Advisory Services in the Field of Human Rights, with the aim of supporting projects of direct benefit to indigenous peoples.

190. The Working Group recommended that regional training courses on the United Nations, human rights and indigenous peoples be organized, as soon as possible, in all relevant regions.

191. The Working Group urged the United Nations Department of Public Information (i) to approve that the Press Unit in Geneva cover systematically the Working Group's meetings and (ii) to make every effort to develop a more comprehensive programme of translating and publishing basic human rights instruments, including, when it has been adopted, the universal declaration on the rights of indigenous peoples, into indigenous languages. The Working Group is firmly committed to the principle that indigenous peoples have the right to learn about and teach their rights in languages they understand.

192. The Working Group would like to emphasize its potential as a catalyst and advocate, with respect to other parts of the United Nations system, to promote the rights and interests of indigenous peoples. In this regard, and without prejudice to encouraging the understanding of indigenous peoples' history, the Working Group stressed the need for a forward-looking approach to relations between States and indigenous peoples which would contribute to a more just and stable relationship between them.

193. The Working Group appealed to the Secretary-General to increase the number of Professional staff members currently assigned to its work, keeping in mind the additional heavy work which should be done for the International Year, and to consider for this purpose the establishment of a separate unit within the Centre for Human Rights. In this regard, the Working Group welcomed the appointment of three indigenous associate experts to the Centre for Human Rights in connection with the International Year. It further stressed the need and usefulness of considering the appointment of indigenous professionals nominated by indigenous peoples into United Nations services.

194. The Working Group has followed with interest the work of the Conference on Security and Cooperation in Europe (CSCE) with respect to the issues concerning minorities and indigenous peoples, and recalled that millions of indigenous people live in the territories of certain CSCE participating States. The Working Group urged participating States to consider further examining the protection of the rights of indigenous peoples at future CSCE meetings. In that regard, the Working Group expressed its thanks and appreciation to the CSCE for the inclusion of relevant provision 29 in the CSCE Document of the Helsinki 1992 Meeting, although it had some reservations with respect to the wording "persons belonging to indigenous populations", and authorized its Chairperson-Rapporteur to monitor the relevant activities of the CSCE in this field.

195. The Working Group welcomed the establishment of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, and expressed its particular satisfaction at plans for indigenous representation on the governing bodies of the Fund.

196. The Working Group decided to consider the questions, "International Year of the World's Indigenous People", "Cultural and Intellectual Property of Indigenous Peoples", "Treaties and Agreements with Indigenous Peoples", and "Future Role of the Working Group", as separate items of the agenda at its eleventh session.

197. The Working Group decided to request the Secretary-General to prepare an annotated agenda for its eleventh and future sessions.

Annex I

PREAMBULAR AND OPERATIVE PARAGRAPHS OF THE DRAFT DECLARATION AS AGREED UPON BY THE MEMBERS OF THE WORKING GROUP AT FIRST READING

First preambular paragraph

Affirming that all indigenous peoples are free and equal in dignity and rights to all peoples in accordance with international standards, while recognizing the right of all individuals and peoples to be different, to consider themselves different, and to be respected as such,

Second preambular paragraph

Considering that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Third preambular paragraph

Convinced that all doctrines, policies and practices of racial, religious, ethnic or cultural superiority are scientifically false, legally invalid, morally condemnable and socially unjust,

Fourth preambular paragraph

Concerned that indigenous peoples have often been deprived of their human rights and fundamental freedoms, resulting in the dispossession of their lands, territories and resources, as well as in their poverty and marginalization,

Fifth preambular paragraph

Considering that treaties, agreements and other constructive arrangements between States and indigenous peoples continue to be matters of international concern and responsibility,

Sixth preambular paragraph

Welcoming the fact that indigenous peoples are organizing themselves in order to bring an end to all forms of discrimination and oppression wherever they occur,

Seventh preambular paragraph

Recognizing the urgent need to respect and promote the rights and characteristics of indigenous peoples, especially their rights to their lands, territories and resources, which stem from their history, philosophy, cultures and spiritual and other traditions, as well as from their political, economic and social structures,

Eighth preambular paragraph

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from adverse distinction or discrimination of any kind,

Ninth preambular paragraph

Endorsing efforts to revitalize and strengthen the societies, cultures and traditions of indigenous peoples, through their control over development affecting them or their lands, territories and resources, as well as to promote their future development in accordance with their aspirations and needs,

Tenth preambular paragraph

Recognizing that the lands and territories of indigenous peoples should not be used for military purposes without their consent and reaffirming the importance of the demilitarization of their lands and territories, which will contribute to peace, understanding, economic development and friendly relations among all peoples of the world,

Eleventh preambular paragraph

Emphasizing the importance of giving special attention to the rights and needs of indigenous women, youth and children, and in particular to their right to equality of educational opportunities and access to all levels and forms of education,

Twelfth preambular paragraph

Recognizing in particular that it is usually in the best interest of indigenous children for their family and community to retain shared responsibility for their upbringing and education,

Thirteenth preambular paragraph

Believing that indigenous peoples have the right freely to determine their relationships with the States in which they live, in a spirit of coexistence with other citizens,

Fourteenth premabular paragraph

Noting that the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Fifteenth preambular paragraph

Bearing in mind that nothing in this Declaration may be used as an excuse for denying to any people its right of self-determination,

Sixteenth preambular paragraph

Encouraging States to comply with and effectively implement all international instruments as they apply to indigenous peoples, in consultation with the peoples concerned,

Seventeenth preambular paragraph

Solemnly proclaims the following Declaration on the Rights of Indigenous Peoples:

PART I

Operative paragraph 1

Indigenous peoples have the right of self-determination, in accordance with international law by virtue of which they may freely determine their political status and institutions and freely pursue their economic, social and cultural development. An integral part of this is the right to autonomy and self-government;

Operative paragraph 2

Indigenous peoples have the right to the full and effective enjoyment of all of the human rights and fundamental freedoms which are recognized in the Charter of the United Nations and in international human rights law;

Operative paragraph 3

Indigenous peoples have the right to be free and equal to all other human beings and peoples in dignity and rights, and to be free from adverse distinction or discrimination of any kind based on their indigenous identity;

PART II

Operative paragraph 4

Nothing in this Declaration may be interpreted as implying for any State, group or individual any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations;

Operative paragraph 5

Indigenous peoples have the collective right to exist in peace and security as distinct peoples and to be protected against genocide, as well as the individual rights to life, physical and mental integrity, liberty and security of person;

Operative paragraph 6

Indigenous peoples have the collective and individual right to maintain and develop their distinct ethnic and cultural characteristics and identities, including the right to self-identification;

Operative paragraph 7

Indigenous peoples have the collective and individual right to be protected from cultural genocide, including the prevention of and redress for:

(a) Any act which has the aim or effect of depriving them of their integrity as distinct societies, or of their cultural or ethnic characteristics or identities;

(b) Any form of forced assimilation or integration by imposition of other cultures or ways of life;

(c) Dispossession of their lands, territories or resources;

(d) Any propaganda directed against them;

Operative paragraph 8

Indigenous peoples have the right to revive and practise their cultural identity and traditions, including the right to maintain, develop and protect the past, present and future manifestations of their cultures, such as archeological and historical sites and structures, artefacts, designs, ceremonies, technology and works of art, as well as the right to the restitution of cultural, religious and spiritual property taken from them without their free and informed consent or in violation of their own laws;

Operative paragraph 9

Indigenous peoples have the right to manifest, practise and teach their own spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains;

Operative paragraph 10

Indigenous peoples have the right to revive, use, develop, promote and transmit to future generations their own languages, writing systems and literature, and to designate and maintain their own names of communities, places and persons. States shall take effective measures to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other effective means;

Operative paragraph 11

Indigenous peoples have the right to all levels and forms of education, including access to education in their own languages, and the right to establish and control their own educational systems and institutions. Resources shall be provided by the State for these purposes;

Operative paragraph 12

Indigenous peoples have the right to have the dignity and diversity of their cultures, histories, traditions and aspirations reflected in all forms of education and public information. States shall take effective measures to eliminate prejudices and to foster tolerance, understanding and good relations;

Operative paragraph 13

Indigenous peoples have the right to the use of and access to all forms of mass media in their own languages. States shall take effective measures to this end;

Operative paragraph 14

Indigenous peoples have the right to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their own political, economic, social, cultural and spiritual development, and for the enjoyment of the rights contained in this Declaration;

PART III

Operative paragraph 15

Indigenous peoples have the right to recognition of their distinctive and profound relationship with the total environment of the lands, territories and resources which they have traditionally occupied or otherwise used;

Operative paragraph 16

Indigenous peoples have the collective and individual right to own, control and use the lands and territories they have traditionally occupied or otherwise used. This includes the right to the full recognition of their own laws and customs, land-tenure systems and institutions for the management of resources, and the right to effective measures by States to prevent any interference with or encroachment upon these rights. Nothing in the foregoing shall be interpreted as restricting the development of self-government and self-management arrangements not tied to indigenous territories and resources;

Operative paragraph 17

Indigenous peoples have the right to the restitution or, where this is not possible, to just and fair compensation for lands and territories which have been confiscated, occupied, used or damaged without their free and informed consent. Unless otherwise freely agreed upon by the peoples

concerned, compensation shall preferably take the form of lands and territories of quality, quantity and legal status at least equal to those which were lost;

Operative paragraph 18

Indigenous peoples have the right to the protection and, where appropriate, the rehabilitation of the total environment and productive capacity of their lands and territories, and the right to adequate assistance, including international cooperation, to this end. Unless otherwise freely agreed upon by the peoples concerned, military activities and the storage or disposal of hazardous materials shall not take place in their lands and territories;

Operative paragraph 19

Indigenous peoples have the right to special measures for protection, as intellectual property, of their traditional cultural manifestations, such as literature, designs, visual and performing arts, seeds, genetic resources, medicine and knowledge of the useful properties of fauna and flora;

Operative paragraph 20

Indigenous peoples have the right to require that States and domestic and transnational corporations consult with them and obtain their free and informed consent prior to the commencement of any large-scale projects, particularly natural resource development projects or exploitation of mineral and other subsoil resources, in order to enhance the projects' benefits and to mitigate any adverse economic, social, environmental and cultural effects. Just and fair compensation shall be provided for any such activity or adverse consequence undertaken;

PART IV

Operative paragraph 21

Indigenous peoples have the right to maintain and develop within their lands and other territories their economic, social, and cultural structures, institutions and traditions, to be secure in the enjoyment of their traditional means of subsistence, and the right to engage freely in their traditional and other economic activities, including hunting, fishing, herding, gathering, lumbering and cultivation. In no case may indigenous peoples be deprived of their means of subsistence. They are entitled to just and fair compensation if they have been so deprived;

Operative paragraph 22

Indigenous peoples have the right to special state measures within available resources for the immediate, effective and continuing improvement of their economic and social conditions, with their free and informed consent, that reflect their own priorities;

Operative paragraph 23

Indigenous peoples have the right to determine, plan and implement, as far as possible through their own institutions, all health, housing and other economic and social programmes affecting them;

Operative paragraph 24

Indigenous peoples have the right to their own traditional medicines and health practices. This includes the right to protection of vital medicinal plants, animals, and minerals. The above may not be construed as a limitation to indigenous health systems, if they so wish;

Operative paragraph 25

Indigenous peoples have the right to participate on an equal footing with all other citizens and without adverse discrimination in the political, economic, social and cultural life of the State and to have their specific character duly reflected in the legal system and in political and socio-economic and cultural institutions, as appropriate, including in particular proper regard to, full recognition of and respect for indigenous laws, customs and practices;

Operative paragraph 26

Indigenous peoples have the right (a) to participate fully at all levels of government, through representatives chosen by themselves, in decision-making about and implementation of all national and international matters which may affect their rights, lives and destinies; (b) to be involved, through appropriate procedures, determined in consultation with them, in devising laws or administrative measures that may affect them directly. States have the duty to obtain their free and informed consent before implementing such measures;

Operative paragraph 27

Indigenous peoples have the right to autonomy in matters relating to their own internal and local affairs, including education, information, mass media, culture, religion, health, housing, employment, social welfare in general, traditional and other economic and management activities, land and resources administration, environment and entry by non-members, and the environment, as well as internal taxation for financing these autonomous functions;

Operative paragraph 28

Indigenous peoples have the right to decide upon the structures of their autonomous institutions, to select the membership of such institutions according to their own procedures, and to determine the membership of the indigenous peoples concerned for these purposes; States have the duty to recognize and respect the integrity of such institutions and their memberships;

Operative paragraph 29

Indigenous peoples have the right to determine the responsibilities of individuals to their own community, consistent with universally recognized human rights and fundamental freedoms and with the rights contained in this declaration;

Operative paragraph 30

Indigenous peoples have the right to maintain and develop traditional contacts, relations and cooperation, including activities for economic, social, cultural and spiritual purposes between indigenous peoples across borders. States should adopt measures to facilitate such contacts;

Operative paragraph 31

Indigenous peoples have the right to claim that States or their successors honour treaties and other agreements concluded with indigenous peoples, and to submit any disputes that may arise in this matter to competent national or international bodies, according to their original intent, or courts;

Operative paragraph 32

Indigenous peoples have the individual and collective right to access and prompt decision by mutually acceptable and fair procedures for resolving conflicts or disputes with States. These procedures may include, as appropriate, negotiation, mediation, conciliation, arbitration or judicial settlement at national courts and, where domestic remedies have been exhausted, international and regional human rights review mechanism for complaints;

Operative paragraph 33

States have the duty, in consultation with the indigenous peoples concerned, to take effective measures to ensure the full enjoyment of the exercise of the indigenous rights and other human rights and fundamental freedoms referred to in this Declaration;

Operative paragraph 34

These rights contained herein constitute the minimum standards for the survival and the well-being of the indigenous peoples of the world;

Operative paragraph 35

Nothing in this declaration may be interpreted as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire;

Operative paragraph 36

Indigenous peoples have the right to special protection and security in periods of armed conflict. States shall observe international standards for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:

(a) Recruit indigenous people against their will into the armed forces and, in particular, for use against other indigenous peoples;

(b) Force indigenous people to abandon their land and territories and means of subsistence and relocate them in special centres for military purposes;

Operative paragraph 37

Indigenous peoples have the right to retain and develop their customary laws and legal systems where these are not incompatible with human rights and fundamental freedoms enshrined in international human rights instruments;

Operative paragraph 38

Indigenous peoples shall not be forcibly removed from their lands or territories. Where relocation occurs it shall be with the free and informed consent of the indigenous peoples concerned and after agreement on a fair and just compensation and, where possible, the option of return;

Operative paragraph 39

The application of the provisions of this Declaration shall not adversely affect the rights and benefits of the indigenous peoples concerned or of any other national of a State pursuant to other international instruments, treaties or laws.

Annex II

QUESTIONNAIRES SUBMITTED BY THE SPECIAL RAPPORTEUR OF THE SUB-COMMISSION, MR. MIGUEL ALFONSO MARTINEZ, ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS PEOPLES

A. GOVERNMENT VERSION

PART I

Has your country, or a former colonial power with previous authority upon your country's present territory (if this was the situation), entered into any treaties, agreements or other types of formal or informal mutually agreed upon instruments with indigenous peoples? Likewise, have indigenous peoples who currently live in the present territory of your country entered into any treaties, agreements or other types of informal instruments with other States?

(a) If your answer is no, please go to Part III.

(b) If your answer is yes, the Special Rapporteur would request all relevant materials and information with respect to the questions under Parts II and III.

PART II

1. Copies of treaties, agreements or other types of formal or informal mutually agreed upon instruments between indigenous peoples and States.

2. Other constructive arrangements constituting elements governing relations between indigenous peoples and States, in particular those consisting of mutual obligations or containing guarantees relating to indigenous rights (i.e. land, resources, traditional practices and beliefs, etc.).

3. Parties to the treaties, agreements or other constructive arrangements, including statistical data on the respective indigenous peoples.

4. Historical circumstances of the negotiation, conclusion, celebration, application, amendment, modification and/or termination of the treaties, agreements or other constructive arrangements.

(Please specify the nature of the instrument, explaining the circumstances leading to negotiations and the signing of the treaty; the powers and specific instructions to the negotiator representing the State concerning the conduct of the treaty negotiation and celebration; the existence of an internal law (of the State) regarding the format of treaty negotiations; the existence of national laws requiring the consent of the indigenous peoples for the validity of the said instrument; etc.)

5. The purpose of the treaties, agreements or other constructive arrangements (i.e. peace, boundary delimitation, friendship, cooperation, trade, etc.);

(The cause and object of the instrument; the position of the State in matters of land and resources within the treaty area; express or tacit language in the instrument implying the relinguishing of indigenous rights to lands and resources.)

6. The substantive contents of the treaties, agreements or other constructive arrangements.

7. The authoritative language(s) in which the treaties, agreements or other constructive arrangements were concluded.

(The existence of different language versions of the treaty, including indigenous languages; updating; in terms of language, of the treaty.)

8. Applicable rules of interpretation of the treaties, agreements or other constructive arrangements (of both their texts and connected legal instruments).

(In the case of reinterpretation: the possibility for indigenous peoples to hold the Government to the original provisions of the treaty; the existence of legal means for indigenous peoples to reject formally reinterpretation they disagree with; consultation with treaty peoples regarding changes proposed by the State; the existence, within present implementation machinery, of the requirement to consult with the indigenous party.)

9. Conflict resolution provisions of the treaties, agreements or other constructive arrangements.

(Settling of disputes in relation to treaty interpretation; the existence of mechanisms within the treaty provisions to resolve outstanding disputes.)

10. Methods of registration and publication of the treaties, agreements or other constructive arrangements.

11. Constitutional and legislative provisions on the conclusion of the treaties, agreements or other constructive arrangements, as well as the constitutional and legislative provisions on the application and termination of such instruments.

(The decision-making authority with regard to the implementation of the treaty provisions; the existence of a specific Government branch to deal exclusively with the treaties; right of veto for indigenous peoples on issues directly related to the treaty.)

12. The juridical status and official recognition by States and indigenous peoples of the treaties, agreements or other constructive arrangements.

13. Constitutional and other guarantees and legislative and administrative regulations based on the treaties, agreements or other constructive arrangements, or derived from the same.

14. Judicial or other types of decisions by higher and lower courts, or other organs with comparative authority, at the local, provincial/State and national levels, involving treaties, agreements or other constructive arrangements.

15. Practical consequences for all parties resulting from the implementation, or lack thereof, of the treaties, agreements or other constructive arrangements.

(Recognition, through provisions of the instruments and consequent practice, of indigenous legal systems.)

16. Ongoing or planned negotiations for the conclusion of new treaties, agreements or other constructive arrangements, as well as for the amendment or modification of existing ones.

17. Treaties, agreements or other constructive arrangements which have been terminated, abandoned or rendered obsolete by indigenous peoples or States, either unilaterally or bilaterally.

(The existence of administrative or legislative measures altering the nature of the treaty relationship, steps or measures taken to actually terminate the treaty.)

18. Bilateral or multilateral treaties between States establishing rights for and/or obligations of indigenous peoples.

PART III

19. What is your Government's position with respect to the principles and norms that govern the interpretation of treaties and other instruments?

20. Does your Government currently have authority to make treaties with indigenous peoples? How would it be exercised?

21. Does your Government currently have authority to make other kinds of agreements with indigenous peoples? With what objects, and by what procedure?

22. What measures has your Government undertaken, or intends to undertake, to resolve situations of conflict arising from treaty, or non-treaty relations, between your State and indigenous peoples?

23. Is there any process by which disputes regarding treaties could be settled by an independent body either within or outside the State?

24. What recommendation do you have for the Special Rapporteur with regard to the choice of existing or new international fora for the resolution of treaty or non-treaty issues between the State and indigenous peoples?

(For instance: the use of a mutually agreed upon, impartial third party, such as the International Court of Justice, to provide the necessary assistance to mediate or resolve important treaties and other instruments in question.)

25. Would you recommend that, in the process of treaty making and treaty application, States and indigenous peoples establish relations in political, cultural and economic spheres of interaction?

26. Does your Government have any suggestions to the Special Rapporteur which would help define the future role of indigenous treaties and other instruments?

27. Please provide any additional information you consider relevant.

B. INDIGENOUS PEOPLES/ORGANIZATIONS VERSION

PART I

Do you feel bound to honour any treaty, agreement or other constructive arrangements with the Government of the country in which you live, or with a colonial Government, or with any other European countries?

(a) If your answer is no, please go to Part III.

(b) If your answer is yes, the Special Rapporteur would request all relevant materials and information with respect to the questions under Parts II and III.

PART II

1. Copies of treaties, agreements or other types of formal or informal mutually agreed upon instruments between indigenous peoples and States.

2. Other constructive arrangements constituting elements governing relations between indigenous peoples and States, in particular those consisting of mutual obligations or containing guarantees relating to indigenous rights (i.e. land/or resources, traditional practices and beliefs, etc.).

3. Parties to the treaties, agreements or other constructive arrangements, including statistical data on the respective indigenous peoples.

4. Historical circumstances of the negotiation, conclusion, celebration, application, amendment, modification and/or termination of the treaties, agreements or other constructive arrangements.

(Please specify the nature of the instrument, explaining the circumstances leading to negotiations and the signing of the treaty; indigenous law regarding the format of the treaty negotiations; legal system used and the authority exercised by the indigenous peoples at the time of entering into the treaty (sovereignty and indigenous government); authority and legitimacy of those who signed the treaty on behalf of indigenous peoples; process of ratification practised by the indigenous peoples within or outside the indigenous legal system.)

5. The purpose of the treaties, agreements or other constructive arrangements (i.e. peace, boundary delimitation, friendship, cooperation, trade, etc.);

(The cause and object of the instrument; use of treaties as a pretext for legitimizing settlement, without any intention on the part of the State to observe the indigenous peoples' treaty rights; the express or tacit language in the instrument implying the relinquishing of indigenous rights to lands and resources; the specific requests made to indigenous peoples prior to entering into the treaty: peace, friendship, land cession or cession of indigneous governments; the exact nature of treaty agreement.)

6. The substantive contents of the treaties, agreements or other constructive arrangements.

7. The authoritative language(s) in which the treaties, agreements or other constructive arrangements were concluded.

(The existence of different language versions of the treaty, including indigenous languages; updating, in terms of language, of the treaty.)

8. Applicable rules of interpretation of the treaties, agreements or other constructive arrangements (of both their texts and connected legal instruments).

(In the case of reinterpretation: the possibility for indigenous peoples to hold the Government to the original provisions of the treaty; the existence of legal means for indigenous peoples to reject formally reinterpretation they disagree with; consultation with treaty peoples regarding changes proposed by the State; the existence, within present implementation machinery, of the requirement to consult with the indigenous party.)

9. Conflict resolution provisions of the treaties, agreements or other constructive arrangements.

(Settling of disputes in relation to treaty interpretations; the existence of mechanisms within the treaty provisions to resolve outstanding disputes.)

10. Methods of registration and publication of the treaties, agreements or other constructive arrangements.

(Transmission of knowledge contained in the treaty from generation to generation; written or oral transmission; the sharing of treaty knowledge by all, or the existence of a specific group of individuals having exclusive knowledge.)

11. Constitutional and legislative provisions on the conclusion of the treaties, agreements or other constructive arrangements, as well as the constitutional and legislative provisions on the application and termination of such instruments.

(The decision-making authority with regard to the implementation of the treaty provisions; the position of indigenous peoples on the treaty mechanism; right of veto for indigenous peoples on issues directly related to the treaty.)

12. The juridical status and official recognition by States and indigenous peoples of the treaties, agreements or other constructive arrangements.

13. Practical consequences for all parties resulting from the implementation, or lack thereof, of the treaties, agreements or other constructive arrangements.

(Recognition, through provisions of the instruments and consequent practice, of indigenous legal systems.)

14. Ongoing or planned negotiations for the conclusion of new treaties, agreements or other constructive arrangements, as well as for the amendment or modification of existing ones.

15. Treaties, agreements or other constructive arrangements which have been terminated, abandoned or rendered obsolete by indigenous peoples or States, either unilaterally or bilaterally.

(The existence of administrative or legislative measures altering the nature of the treaty relationship; steps or measures taken to actually terminate the treaty.)

PART III

16. What is the position of your people/organization with respect to the principles and norms that govern the interpretation of treaties and other instruments?

17. Would you be willing to make a new treaty today with the national Government? If your answer is no, please explain why. If your answer is yes, please indicate what you want to include in a new treaty.

18. What do you think would be the best way to see that treaties with indigenous peoples are enforced and respected?

19. What measures have indigenous peoples/organizations undertaken to resolve situations of conflict arising from treaty, or non-treaty, relations between States and indigenous peoples?

20. Does your Government currently have authority to make treaties with indigenous peoples? How would it be exercised?

21. Does your Government currently have authority to make other kinds of agreements with indigenous peoples? With what objects, and by what procedure?

22. Would you recommend that, in the process of treaty making and treaty application, indigenous peoples and States establish relations in political, cultural and economic spheres of interaction?

23. Does your people/organization have any suggestions to the Special Rapporteur which would help define the future role of indigenous treaties and other instruments?

24. Please provide any additional information you consider relevant.